



ANNUAL REPORT 2021





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# Acknowledgements

As current members of the United States Advisory Council on Human Trafficking (Council), we are grateful to members who served on the Council before us and who promoted survivor empowerment with federal agencies and local communities in the fight against human trafficking. We honor and reflect on their groundbreaking work and federal agencies' efforts to implement their recommendations.

We are thankful to the federal agencies that dedicated time to meet with the Council in preparation of this report. This includes the Department of Commerce (DOC), Department of Education (ED), Department of Health and Human Services (HHS), Department of Housing and Urban Development (HUD), Department of Homeland Security (DHS), Department of Justice (DOJ), Department of Labor (DOL), Department of State (State), and Department of Transportation (DOT).

We are most grateful to the Department of State's Office to Monitor and Combat Trafficking in Persons and ICF staff for supporting the Council's work.

We also thank the U.S. Congress for including provisions in the William M. (Mac.) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116-283) to compensate the Council for its work and contributions to the federal government's fight against human trafficking.

Finally, we thank President Joseph Biden, Secretary of State Antony Blinken, and members of Congress for providing an honorable platform for survivors of human trafficking to contribute their expertise in the United States.

# About the Council

The U.S. Advisory Council on Human Trafficking comprises 11 Survivor Leaders who bring their expertise and experience to advise and provide recommendations to the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF) to improve federal anti-trafficking policies.

The Council was established on May 29, 2015, by section 115 of the Justice for Victims of Trafficking Act of 2015, Pub. L. 114-22, also known as the Survivors of Human Trafficking Empowerment Act. In December 2019, June 2020, and January 2021, the President appointed members of the Council to:

- Provide advice and recommendations to the U.S. government, specifically the Senior Policy Operating Group (SPOG) and the PITF<sup>1</sup>, to strengthen federal policy and programming efforts that reflect best practices in the anti-trafficking field.
- Review federal U.S. government policy and programs intended to combat human trafficking, including programs relating to the provision of services for victims.
- Gather information from U.S. government agencies, states, and the community for the Council's annual report.
- Publish an annual report that contains the findings derived from reviews conducted of federal government policy and programs.
- Serve as a point of contact for federal agencies reaching out to human trafficking survivors for input on anti-trafficking programming and policies in the United States.
- Represent the diverse population of human trafficking survivors across the United States.

The Council brings expertise from members' personal experiences of human trafficking as well as members' ongoing work and leadership in various national, state, and local anti-trafficking efforts. The Council has organized itself into two committees to conduct its work: the Underserved Populations Committee and the Committee on Administration of Justice. Information about each Council member is provided on pages 4 and 5.

<sup>1</sup> The PITF and the SPOG, which consists of senior officials designated as representatives of the PITF agencies, work year-round to address the many aspects of human trafficking both in the United States and around the world. PITF agencies regularly convene to advance and coordinate federal policies and collaborate with a range of stakeholders.

# U.S. Advisory Council on Human Trafficking



**Suleman Masood**

Council Chair and Committee on Administration of Justice  
Subject matter expert in human trafficking and male victimization



**Kwami Adoboe-Herrera**

Committee on Administration of Justice  
Board member of Not for Sale: One Step at a Time; Anti-trafficking advocate, consultant, and speaker  
*"He will judge the nations with HIS Truth"*  
—Psalm 96



**Tanya Gould**

Council Vice Chair and Underserved Populations Committee  
Survivor expert and consultant  
*"The world cares very little what you or I know, but it does care a great deal about what you or I do"*  
—Booker T. Washington



**Marlene Carson**

Underserved Populations Committee  
Founder, Rahab's Hope of Ohio; SurThriver<sup>2</sup>; Housing, programming, and social enterprise consultant  
*"And ye shall know the truth, and the truth shall make you free"*  
—John 8:32, King James Version



**Andrea Hipwell**

Council Secretary and Committee on Administration of Justice  
Survivor Leader at Wellspring Living (Atlanta, GA); Survivor expert and consultant



**Katherine Givens**

Underserved Populations Committee  
Co-founder of Twelve 11 Partners  
*"...do what is right, love mercy, walk humbly with our God"*—Micah 6:8

<sup>2</sup> A SurThriver is a blended word describing a survivor who thrives in their healing process.





**Bella Hounakey**

Committee on Administration of Justice  
Survivor consultant and subject  
matter expert

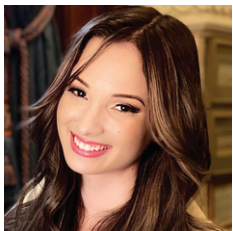
*"To my fellow survivors: come alone;  
come in pairs; come in groups; it is our time  
to come together and speak out. I continue  
to stay in solidarity with you"*



**Jennisue Jessen**

Committee on Administration of Justice  
Subject matter expert; Founder of  
Compass 31; Global educator;  
Organizational development consultant

*"With the Lord is unfailing love and with  
him is full redemption"—Psalm 130:7*



**Courtney Litvak**

Underserved Populations Committee  
Survivor Leader and advocate;  
Subject matter expert, consultant,  
and public speaker

*"You intended to harm me, but God intended  
it all for good. He brought me to this position  
so I could save the lives of many people"*  
—Genesis 50:20, New Living Translation



**Brenda Myers-Powell**

Underserved Populations Committee  
Co-Founder and Executive Director of The  
Dreamcatcher Foundation; Survivor expert;  
Motivational speaker; Published author

*"Those who say it cannot be done are usually  
interrupted by someone doing it"*  
—Chinese proverb



**Rachel Thomas, M.Ed.**

Committee on Administration of Justice  
Speaker; Trainer; Author of *"Ending The  
Game: An Intervention Curriculum for  
Victims of Commercial Sexual Exploitation"*

# About the President's Interagency Task Force

The President's Interagency Task Force to Monitor and Combat Trafficking in Persons was authorized by section 105(a) of the Trafficking Victims Protection Act of 2000, Pub. L. 106-386, and established by section 1(a) of Executive Order 13257 (Feb. 13, 2002).

The agencies of the PITF are:

Department of State (State)  
Department of the Treasury (Treasury)  
Department of Defense (DOD)  
Department of Justice (DOJ)  
Department of the Interior (DOI)  
Department of Agriculture (USDA)  
Department of Commerce (DOC)  
Department of Labor (DOL)  
Department of Health and Human Services (HHS)  
Department of Transportation (DOT)  
Department of Education (ED)  
Department of Homeland Security (DHS)  
Domestic Policy Council (DPC)  
National Security Council (NSC)  
Office of Management and Budget (OMB)  
Office of the United States Trade Representative (USTR)  
Office of the Director of National Intelligence (ODNI)  
Federal Bureau of Investigation (FBI)  
U.S. Agency for International Development (USAID)  
U.S. Equal Employment Opportunity Commission (EEOC)



# Introduction

“Unprecedented” is a term often used to describe the impact the COVID-19 pandemic has had on our nation and our world. While it has prompted a never-before-encountered host of challenges, it has also created new opportunities to unify around what matters most, to innovate, and to explore solutions for a better future together.

The capacity to unify, innovate, draw strength from community, and resiliently forge new uphill paths is one that has been hard won by human trafficking “Survivor Leaders” (see box). We have fought for our own personal survival, and for the greater communities to which we belong. As a diverse Council of “Lived Experience Experts,” we see the nation and world as communities to which we *all* belong, and we believe that what matters most is equity and for every human being to be afforded fairness, opportunity, and access to appropriate resources to reach their fullest potential.

In this report, like Councils before us, we continue to call upon federal agencies to increase and enhance partnerships not only with Survivor Leaders, but with each other. We call for:

- Better coordination to collect and analyze data to increase human trafficking prosecutions.
- Increased partnerships to provide holistic services to victims and their families, especially services that promote economic stability and self-sufficiency.
- More accountability and intentionality in the equitable distribution of government funding and resources to combat human trafficking.
- The creation of meaningful opportunities for Survivor Leaders to review, co-create, and inform agencies’ training materials and procedures as they relate to service provision and the administration of justice in human trafficking cases.

## SURVIVOR LEADERS AND LIVED EXPERIENCE EXPERTS

There are a myriad of terms survivors use to identify themselves. For purposes of this report, we use the terms Survivor Leader and Lived Experience Expert interchangeably. “Survivor Leader” highlights strength and expertise in helping to end human trafficking, yet it implies that the person’s hardship was solely in the past and only related to human trafficking. “Lived Experience Expert” encompasses both past, current, and generational experiences (systemic injustices, other traumas) and the person’s expertise in continuing to forge ways to positively affect a variety of systemic issues.

Our nation is in a season of rebuilding, and we believe we have been placed in this position at this time to positively impact the lives of many. We thank you for reading our report, we are grateful to each federal agency for considering our recommendations, we thank the United States Government for creating this important platform for Survivor Leaders, and we implore all survivors and allies to keep pressing forward in unity, strength, and innovation.

### IMPACTS OF COVID-19 ON ANTI-TRAFFICKING EFFORTS

The rapid, catastrophic nature of the COVID-19 pandemic exacerbated the risk factors and challenges vulnerable populations face and created obstacles for those impacted by trafficking and exploitation to pursue justice and receive services. Federal, state, territorial, tribal, and local agencies were unprepared and overwhelmed by the COVID-19 pandemic. As a result:

- COVID-19 shutdowns and shelter-in-place orders left vulnerable populations living with their traffickers, abusers, and others who would exploit them. Many were forced to live in small quarters, such as trailers or run-down homes without proper plumbing, electricity, or gas.
- Victims of labor and sex trafficking were often cast aside as state and local human and victim service organizations began to prioritize the needs of other populations; and programs and services that were initially tailored to support trafficking victims were suddenly turning away and diverting resources from the very populations they were created to serve.\*
- Reports of abuse by mandated reporters decreased as schools and businesses shut down, hindering investigations, and deferring court processes for those that were experiencing exploitation. Yet, with the majority of children participating in school online, 2020 was a record-breaking year with more than 21.7 million reports of suspected child sexual exploitation made to the National Center for Missing and Exploited Children's (NCMEC) CyberTipline.\*\*
- Stimulus checks and other government support often did not reach trafficking victims since many victims face barriers to filing tax returns, due to lack of identification, lack of W-2 forms, or not having a permanent address.

At its core, human trafficking is an exploitation of vulnerability. The COVID-19 pandemic has caused the most vulnerable to be the least served. In the midst of these complex and compounding vulnerabilities, it is imperative to consider innovations in the delivery of virtual services and the creation of new online tools to reach those being exploited. Therefore, we call on PITF agencies to reflect on these challenges as an opportunity to collaborate and create innovative, lasting solutions.

Sources:

\*Members of the Council heard of instances of victims and survivors being cast aside by organizations both anecdotally and through their direct state and local work with victims and survivors of human trafficking.

\*\*National Center for Missing & Exploited Children. (2021). *CyberTipline*. <https://www.missingkids.org/gethelpnow/cybertipline>

# Methodology for This Report

In this section, we share the methodology that led to the development of this report and its recommendations. The Council has not only observed and adapted to the widespread changes caused by the COVID-19 pandemic, but also, like the rest of the world, we have witnessed the rise of social injustices affecting communities of color during this time. We believe this Council is uniquely positioned to advise federal agencies on the impacts the COVID-19 pandemic has had on communities of color with respect to human trafficking vulnerabilities and institutional barriers to accessing services—topics that are addressed throughout this report.

In December 2019 and June 2020, eight members were appointed to the Council and in January 2021, three additional members were appointed. The Council formed two working committees, the Underserved Populations Committee, and the Committee on Administration of Justice. To develop its priorities, each committee took time to critically assess challenges in accessing or receiving appropriate services that survivors of trafficking face in the United States.

To gather information to inform this report, the Council's two committees met with nine federal agencies across 14 meetings in May 2021, June 2021, and September 2021. Following these meetings and additional correspondence and information gathering with agencies, the Council met in-person and held virtual meetings to develop this report. The themes and recommendations of this report stem not only from these engagements with federal agencies, but also from a combination of the lived and professional experiences each member brings to this Council. It is these distinct experiences that undergird our recommendations relating to services for underserved populations and support for survivors engaged in the criminal justice system.

In this report, we are proud to present 19 recommendations (see also Appendix A). It is our hope that the federal agencies addressed herein will work alongside this Council to implement our recommendations, as well as the recommendations from future Councils.

We acknowledge that this report represents just a snapshot of vulnerabilities and gaps in services survivors of human trafficking face today. Over time, it is our intention that language, procedures, and awareness continue to be updated with an inclusive approach.



# Forms of Human Trafficking<sup>3</sup>

**Forced Labor:** The term forced labor is defined for enforcement purposes in two separate sections of the United States Code. In the criminal statutes of Title 18, it encompasses the range of activities involved when an individual or entity uses prohibited means that include force or physical threats; psychological coercion; abuse of the legal process; a scheme, plan,

or pattern intended to hold a person in fear of serious harm; or other coercive means to obtain the labor or services of a person. Once a person's labor is obtained by such means, the person's previous consent or effort to obtain employment with the trafficker does not preclude the person from being considered a victim, or the government from prosecuting the offender. Forced labor in Title 18 also encompasses when an individual or entity knowingly benefits, financially or by receiving anything of value, from participating in a venture that has engaged in providing or obtaining labor or services by prohibited means, knowing or in reckless disregard of the fact that the venture has engaged in providing or obtaining labor or services by such prohibited means. In the customs-related statute of Title 19, it is also defined in connection with the prohibition on the importation of goods produced wholly or in part by forced labor, including forced child labor; convict labor; and/or indentured labor under penal sanctions. In this context, forced labor is defined as: "all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." In addition, Title 22 includes the following definition to describe this as a severe form of human trafficking: "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."<sup>4</sup>

- **Forced Child Labor:** Forced child labor is always implicitly included in prohibitions related to forced labor in U.S. law. Although some children may legally engage in certain forms of work depending on the jurisdiction, forced child labor continues to exist both in the United States and globally, despite legal prohibitions and widespread condemnation.



<sup>3</sup> The White House. (2021). *The National Action Plan to Combat Human Trafficking* (forthcoming).

<sup>4</sup> While the term "labor trafficking" does not appear in the United States Code, it is another term that may be used to refer to human trafficking involving compelled labor or services, as distinct from sex trafficking.

**Sex Trafficking:** When a person is required to engage in a commercial sex act as the result of force, threats of force, fraud, coercion, or any combination of such means, or when a person under the age of 18 is caused to engage in commercial sex, that person is a victim of sex trafficking. Under such circumstances, perpetrators involved in recruiting, enticing, harboring, transporting, providing, obtaining, advertising, maintaining, patronizing, or soliciting a person for that purpose are guilty of the federal crime of sex trafficking.<sup>5</sup> This is true even if the victim previously consented to engage in commercial sex.<sup>6</sup>

**Child Sex Trafficking:** U.S. law explicitly includes a distinct definition of “sex trafficking of children.”<sup>7</sup> Any child (under the age of 18) who has been recruited, enticed, harbored, transported, provided, obtained, advertised, maintained, patronized, or solicited to engage in a commercial sex act is a victim of human trafficking, regardless of whether or not force, fraud, or coercion is used. Children cannot consent to commercial sex, therefore, child sex trafficking occurs regardless of whether or not force, fraud, or coercion is used.

**Transnational or extraterritorial child sexual abuse (formerly referred to as child sex tourism):** Transnational or extraterritorial child sexual abuse is a crime that occurs when an American citizen or legal permanent resident travels to a foreign country or resides abroad (whether permanently or temporarily) and engages in illicit sexual conduct with a child. Though not every instance of transnational or extraterritorial child sexual abuse is child sex trafficking, this offense can involve child sex trafficking when the offender engages in a commercial sex act with a child. It is also a crime to arrange or facilitate such travel for the purpose of commercial or private profit. This conduct is a crime whether or not the offender had the intent to engage in sexual activity with a child before the travel took place.<sup>8</sup>

## ADDITIONAL TERMS

**Victim:** This term means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime.<sup>9</sup>

**Survivor:** A term used for an individual who suffered harm as a result of criminal conduct and that recognizes the strength it takes to continue on a journey toward healing in the aftermath of a traumatic experience.<sup>10</sup>

**Victim-centered approach:** Placing the crime victim’s priorities, needs, and interests at the center of the work with the victim; providing nonjudgmental assistance, with an emphasis on self-determination, and assisting victims in making informed choices; ensuring that restoring victims’ feelings of safety and security are a priority and safeguarding against policies and practices that may inadvertently re-traumatize victims. A victim-centered approach should also incorporate a trauma-informed, survivor-informed, and culturally competent approach.<sup>11</sup>

<sup>5</sup> Sex trafficking of children or by force, fraud, or coercion, Pub. L. No. 106-386, 18 U.S.C. § 1591(a) (2012). <https://www.govinfo.gov/app/details/USCODE-2011-title18/USCODE-2011-title18-partI-chap77-sec1591>

<sup>6</sup> Definitions, Pub. L. No. 87-195, 22 U.S.C. § 7102(12) (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title22/USCODE-2019-title22-chap78-sec7102/summary>

<sup>7</sup> Ibid.

<sup>8</sup> Transportation of minors, Pub. L. No. 99-628, 18 U.S.C. § 2423(b)-(d) for the relevant crimes (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title18/USCODE-2019-title18-partI-chap117-sec2423>

<sup>9</sup> Services to victims, Pub. L. No. 101-647, 34 U.S.C. § 20141(e)(2) (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title34/USCODE-2019-title34-subtitleI-chap201-subchapIII-sec20141>

<sup>10</sup> U.S. Department of Justice, U.S. Department of Health and Human Services, & U.S. Department of Homeland Security. (2014). *Federal strategic action plan on services for victims of human trafficking in the United States 2013-2017*. <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/FederalHumanTraffickingStrategicPlan.pdf>

<sup>11</sup> Office for Victims of Crime. (n.d.). *Achieving excellence: Model standards for serving victims and survivors of crime*. U.S. Department of Justice. <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/model-standards/5/glossary.html>

**Trauma-informed approach:** A trauma-informed approach recognizes signs of trauma in individuals and the professionals who help them and responds by integrating knowledge about trauma into policies, procedures, practices, and settings, and seeking to actively resist re-traumatization. This approach includes an understanding of the vulnerabilities and experiences of trauma survivors, including the prevalence and physical, social, and emotional impact of trauma. A trauma-informed approach places priority on restoring the survivor's feelings of safety, choice, and control. Programs, services, agencies, and communities can be trauma-informed.<sup>12</sup>

**Survivor-informed:** A program, policy, intervention, or product that is designed, implemented, and evaluated with intentional leadership, expertise, and input from a diverse community of survivors to ensure that the program, policy, intervention, or product accurately represents their needs, interests, and perceptions.<sup>13</sup>

**Cultural competence:** The ability of an individual or organization to interact effectively with people of different cultures. This includes drawing on knowledge of culturally based values, traditions, customs, language, and behavior to plan, implement, and evaluate service activities. Some organizations use the terms “cultural accountability” or “cultural responsiveness.”<sup>14</sup>

**Debt Bondage:** Debt may be used illegally as a prohibited means of compelling someone into forced labor. Some workers fall victim to traffickers or recruiters who unlawfully exploit an initial debt assumed as a condition of employment, while in certain countries some workers “inherit” the debt. Although contract violations and hazardous working conditions for migrant laborers do not in themselves constitute human trafficking, the imposition of costs and debts on these laborers can contribute to a situation of debt bondage. In other cases, employment-based temporary work programs in which the workers’ legal status in the country is tied to a particular employer present challenges to workers who would like to flee from such an employer.<sup>15</sup>

## IMMIGRATION OPTIONS

**Continued Presence:** A temporary immigration designation provided to individuals identified by law enforcement as victims of “severe forms of trafficking in persons” who may be potential witnesses. This status allows human trafficking victims to lawfully remain in the United States temporarily and work during the investigation into the human trafficking-related crimes committed against them and during any civil action under 18 U.S.C. § 1595 filed by the victims against their traffickers. Continued Presence is initially granted for two years and may be renewed in up to two-year increments. Continued Presence recipients also receive federal benefits and services.<sup>16</sup>

**T nonimmigrant status (“T visa”):** An immigration benefit that is available to eligible victims of “severe forms of trafficking in persons.”<sup>17</sup> To be eligible, the victim must have complied with any reasonable request for assistance in a federal, state, local, tribal,

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> The term “debt bondage” is defined in the Trafficking Victims Protection Act (TVPA) as “the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.” Victims of Trafficking and Violence Protection Act of 2000 (reauthorized through the Trafficking Victims Protection Reauthorization Act (TVRA) of 2003, 2005, 2008, 2013, and 2017), Pub. L. No. 106-386, 22 U.S.C. § 7101 (2000). <https://www.congress.gov/106/plaws/publ386/PLAW-106publ386.pdf>

<sup>16</sup> Protection and assistance for victims of trafficking, Pub. L. No. 104-193, 22 U.S.C. § 7105 (b)(c)(E)(1)(3) (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title22/USCODE-2019-title22-chap78-sec7105>

<sup>17</sup> Id.



or territorial investigation or prosecution of human trafficking cases, and meet other requirements. Victims under the age of 18 and victims unable to cooperate because of physical or psychological trauma are not required to comply with any reasonable law enforcement requests for assistance. The T visa is a tool intended to offer protection to victims and strengthen the ability of law enforcement agencies to investigate and prosecute human trafficking. T nonimmigrant status is valid for 4 years; T nonimmigrants may be able to adjust their status and become lawful permanent residents if they qualify.<sup>18</sup>

**U nonimmigrant status ("U visa"):** An immigration benefit that is available to victims of certain qualifying crimes in the United States—including human trafficking—who have been helpful, are being helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the qualifying criminal activity, and meet other requirements. The U visa is a tool intended to strengthen the ability of law enforcement agencies to investigate and prosecute certain types of crimes, while also protecting crime victims and encouraging them to come forward and assist law enforcement. U nonimmigrant status is valid for four years and can be extended in limited circumstances; U nonimmigrants may be able to adjust their status and become lawful permanent residents if they qualify.<sup>19</sup>

<sup>18</sup> Applicable laws and regulations: Definitions, Pub. L. No. 85-316, 8 U.S.C. § 1101(a)(15)(T) (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title8/USCODE-2019-title8-chap12-subchapl-sec1101>; Admission of nonimmigrants, Pub. L. No. 85-531, 8 U.S.C. § 1184 (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title8/USCODE-2019-title8-chap12-subchapl-partII-sec1184>; Adjustment of status of nonimmigrant to that of person admitted for permanent residence, Pub. L. No. 85-700, U.S.C. § 1255 (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title8/USCODE-2019-title8-chap12-subchapl-partV-sec1255>; Alien victims of severe forms of trafficking in persons, 8 CFR § 214.11 (2021). <https://www.govinfo.gov/app/details/CFR-2021-title8-vol1/CFR-2021-title8-vol1-sec214-11>; Adjustment of aliens in T nonimmigrant classification, 8 CFR § 245.23 (2021). <https://www.govinfo.gov/app/details/CFR-2021-title8-vol1/CFR-2021-title8-vol1-sec245-23>

<sup>19</sup> Applicable laws and regulations: Definitions, Pub. L. No. 85-316, 8 U.S.C. § 1101(a)(15)(U) (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title8/USCODE-2019-title8-chap12-subchapl-sec1101>; Admission of nonimmigrants, Pub. L. No. 85-531, 8 U.S.C. § 1184 (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title8/USCODE-2019-title8-chap12-subchapl-partII-sec1184>; Adjustment of status of nonimmigrant to that of person admitted for permanent residence, Pub. L. No. 85-700, U.S.C. § 1255 (2020). <https://www.govinfo.gov/app/details/USCODE-2019-title8/USCODE-2019-title8-chap12-subchapl-partV-sec1255>; Alien victims of certain qualifying criminal activity, Pub. L. No. 106-386, 8 CFR § 214.14 (2021). <https://www.govinfo.gov/app/details/CFR-2021-title8-vol1/CFR-2021-title8-vol1-sec214-14>; Adjustment of aliens in U nonimmigrant status, 8 CFR § 245.24 (2021). <https://www.govinfo.gov/app/details/CFR-2021-title8-vol1/CFR-2021-title8-vol1-sec245-24>



## FORCE, FRAUD, AND COERCION

It is important for: 1) federal, state, tribal, territorial, and local investigators, prosecutors, and law enforcement; 2) federal, state, tribal, territorial and local human services, housing, and education agencies, and nongovernmental organizations (NGOs); 3) victims of human trafficking; and 4) members of the public to fully understand the meaning of force, fraud, and coercion relating to trafficking in persons.<sup>20</sup> It is equally important for these anti-trafficking stakeholders to recognize and use language that does not sensationalize these terms in ways that may provoke or capture public interest at the expense of accuracy. Below we share examples of each of these elements of human trafficking in the hope that all of the above stakeholders can use this information to:

- Support and promote victim self-identification and cooperation.
- Dispel inaccurate or misleading information, stigmas, and stereotypes, and discourage sensationalism of the realities of human trafficking.
- Increase data collection as well as improve the accuracy of data.
- Engage populations and communities that are reluctant to report.
- Strengthen human trafficking enforcement efforts, including by increasing and ensuring survivor-informed and victim-centered investigations and prosecutions, to achieve just results.
- Increase overall awareness, identification, and education about human trafficking.

This information will help law enforcement, and human services, housing, education agencies, and NGO stakeholders support victims of human trafficking so that victims will be able to:

- Increase self-identification and self-reporting in safe and secure ways.
- Understand survival mechanisms such as disassociation and denial and the psychological and physical impacts of human trafficking.

<sup>20</sup> A helpful resource on trauma-informed and victim-centered responses to human trafficking is: Office for Victims of Crime. (2020). *Understanding human trafficking*. U.S. Department of Justice. <https://www.ovcttac.gov/UnderstandingHumanTrafficking>

- Understand the benefits of working with anti-trafficking stakeholders.
- Understand and break free from the lies, fear, and control tactics traffickers instilled over time to deceive and exploit.
- Increase their understanding of the definitions of force, fraud, and coercion as they relate to their experiences of exploitation.

The below stakeholders can specifically utilize this information to:

#### Federal, state, tribal, territorial, and local investigators, prosecutors, and law enforcement

- Enhance victim-centered, culturally responsive, and trauma-informed comprehensive training for law enforcement.
- Establish and rebuild or strengthen trust between law enforcement and victims by better understanding trafficker control and fear tactics.
- Identify traffickers or victims of human trafficking when investigating other potential crimes (e.g., wage theft).
- Identify sources of information and evidence to support prosecutions that do not rely solely on victim witness testimony.

#### Federal, state, tribal, territorial, and local human services, housing, and education agencies, and NGOs

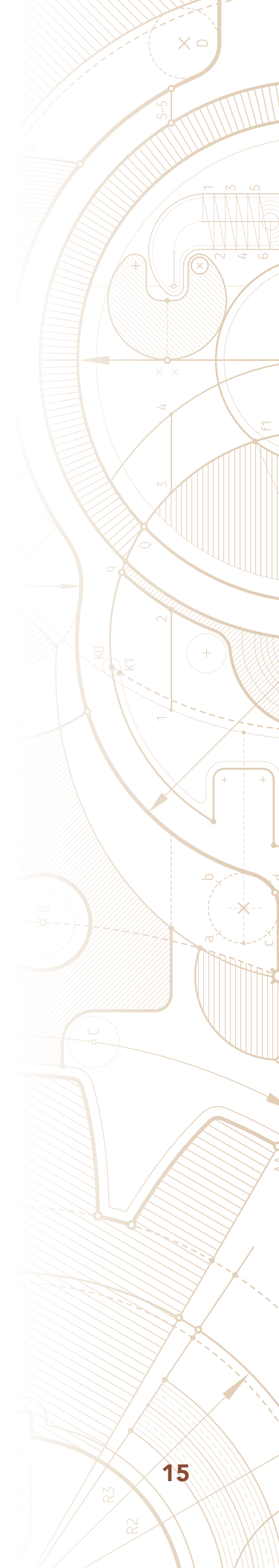
- Ensure policies are victim-centered, culturally responsive, trauma-informed, and rooted in and supported by research and promising practices.
- Increase meaningful long-term partnerships with survivors with different lived experiences to ensure promising and best practices are used.
- Offer a more diverse range of services and resources to victims.
- Support the development of protocols and accountability measures by victim service organizations and task forces that address the impacts force, fraud, and coercion may have on victims.

#### Members of the public

- Understand how human trafficking is **hidden in plain sight** across the United States.
- Understand the complex and different ways human trafficking impacts victims' lives, their physical and psychological safety, their families, and livelihoods.
- Stand against harmful societal and cultural norms that enable human trafficking and that desensitize communities to exploitation and abuse, preventing victims from coming forward or seeking help.
- Identify and report potential trafficking based on a greater understanding of trafficking indicators.

Demonstrating what the terms force, fraud, and coercion mean as they relate to the experiences of a victim will help direct them to needed supports. Language used to describe these terms should be victim-centered and survivor-informed to deter misinterpretations, sensationalism, and stigmas that result in harm to victims or the failure to identify and provide services to victims. Ultimately, by building expertise in both what these terms mean as well as the psychological effects force, fraud, and coercion have on victims will help law enforcement and prosecutors investigate and prosecute cases and service providers offer effective wraparound supports.

It is also important to understand that traffickers' tactics related to force, fraud, and coercion may have only subtle differences or, in some instances, may overlap. We recognize that there is no one set approach to combat human trafficking, but we hope the below examples add value in presenting various possibilities that reflect recurring patterns of behavior that may indicate trafficking. Many of these examples could be





categorized as force, fraud, or coercion; they aim to illustrate various ways a trafficker uses these means to obtain the labor or services of another person or to compel another person to engage in a commercial sex act:<sup>21</sup>

<b>Force<sup>22</sup></b>	This includes, but is not limited to: physical and/or sexual abuse; domestic violence; intimidation by causing or threatening physical harm with the presence of a weapon; inflicting violence on a victim's children or pets as punishment; not allowing victims to take their children if they attempt to leave the trafficker; threatening to injure or kill family, loved ones or pets to obtain compliance; not allowing the victim to travel or see family; forcefully restricting communication with family, loved ones, or anyone outside of the trafficking experience; forcing drug and substance use and abuse; restricting access to needed prescribed medications, mental health, and/or addiction services; restricting other medical care, or needed appointments; restricting the victim's mobility and access to any transportation; forcing victims to sign fraudulent binding contracts, documents, or nondisclosure agreements to keep victims silent and in bondage; requiring the victim be supervised at all times; forcing victims to work daily for any period of time; and/or restricting food and dietary needs.
<b>Fraud<sup>23</sup></b>	This includes, but is not limited to: deception by the trafficker intended to result in the trafficker's financial or personal gain; deception by making false promises, unjustifiable claims or lying about the trafficker's accomplishments or credentials; lying about and presenting fabricated or fraudulent companies or business ventures; establishing a false sense of credibility, security, and trust with victims; creating fake business deals and ventures that falsely promise financial freedom, stability, independence, safety, and security; stating the victim's children will be taken by child protective services; and/or changing the victim's name and identity to control and conceal them; threatening to take and/or spread compromising or explicit images of the victim.
<b>Coercion<sup>24</sup></b>	This includes, but is not limited to: methods of manipulation, persuasion, and breaking down boundaries over a period of time to obtain compliance; isolation; grooming, trauma bonding, brainwashing, gas lighting, blaming, normalizing, and desensitizing harmful behaviors and ideas; over-sexualizing, guilt, and shaming victims; manipulation of substance use and substance use disorders; making false promises of love and friendship; seizing personal identification and documents to immobilize and debilitate the victim; making individuals disclose their vulnerabilities and/or life and relational hardships to use against them; taking advantage of language or geographical barriers; instilling fear and opposition to law enforcement or stating the victim will be arrested and treated as the criminal; convincing victims that no one will love, support, or protect them besides the trafficker; witnessing harm to others or making victims believe they will be harmed if they do not comply based on knowledge that the trafficker has harmed others; and/or impregnating and having children with the victim.

<sup>21</sup> Additional helpful resources on the means traffickers use to victimize individuals and the definitions of force, fraud, and coercion include: United Nations Office of Drugs and Crime. (2017). *Evidential issues in trafficking in persons cases: Case digest*. [https://www.unodc.org/documents/human-trafficking/2017/Case\\_Digest\\_Evidential\\_Issues\\_in\\_Trafficking.pdf](https://www.unodc.org/documents/human-trafficking/2017/Case_Digest_Evidential_Issues_in_Trafficking.pdf); Office on Trafficking in Persons. (2017, November 21). *Human trafficking: Fact sheet*. U.S. Department of Health and Human Services, Administration for Children and Families. <https://www.acf.hhs.gov/otip/fact-sheet/resource/fshumantrafficking>

<sup>22</sup> For additional information about the term force, see Office on Trafficking in Persons. (2021, June 25). *Responding to Foreign National Minor Victims of Trafficking* (video). U.S. Department of Health and Human Services, Administration for Children and Families. <https://www.youtube.com/watch?v=LYsvjr6qT9Y>

<sup>23</sup> For additional information about the term fraud, see Id. In addition, the federal criminal forced labor statute (18 USC § 1589) does not include a means of fraud, although fraudulent conduct can in some cases contribute to a coercive scheme.

<sup>24</sup> For additional information about the term coercion, see: Id.

# Underserved Populations Committee

## OVERVIEW

The mission of the Underserved Populations Committee is to develop appropriate responses to meet the needs and promote equity for marginalized and/or underserved human trafficking populations, including, but not limited to, youth, indigenous populations, black and brown communities, LGBTQIA2S+<sup>25</sup> communities, boys and men, and people with special needs. This Committee aims to improve the quality of and access to resources and justice without prejudice or bias, as well as to address the cultural and root causes of human trafficking among underserved populations.

To effectively address human trafficking, federal agencies must acknowledge and understand the complexity of its root causes. Contexts that drive, enable, or increase the risk of trafficking include:

- A lack of equal access to social capital, education, recreational, and employment opportunities among impoverished and vulnerable communities.
- The perpetuation of harmful community and cultural norms among at-risk communities that may shun social and mental health services, or other support or government systems rooted in generations of mistreatment and mistrust. Cultural norms that exist in the broader community also increase the risk of trafficking, including those that discredit or fail to acknowledge the historical and collective trauma of underserved populations, as well as the acceptance and glorification of exploitation and pornography.
- Systemic barriers in government, social services, or non-governmental programs that may exacerbate inequities for underserved populations or re-exploit those who have experienced victimization.

An understanding, acceptance, and implementation of a trauma-informed approach is critical to addressing these root causes. We acknowledge the federal government's definition of a trauma-informed approach as one that "recognizes signs of trauma in individuals and the professionals who help them and responds by integrating knowledge about trauma into policies, procedures, practices, and settings. This approach includes an understanding of the vulnerabilities and experiences of trauma survivors, including



<sup>25</sup> LGBTQIA2S+ is an acronym for Lesbian, Gay, Bisexual, Transgender, Queer and/or Questioning, Intersex, Asexual, Two-Spirit, and any other ways individuals choose to self-identify.

the prevalence and physical, social, and emotional impact of trauma. A trauma-informed approach places priority on restoring the survivor's feelings of safety, choice, and control."<sup>26</sup>

To address the root causes of human trafficking, we suggest PITF agencies also consider the following when conducting anti-trafficking work or providing training and technical assistance on trauma-informed approaches:

- Address generational and historical trauma and the cumulative emotional and psychological wounding over generations from group trauma experiences.<sup>27</sup>
- Understand family and community trauma<sup>28</sup> and the impacts of environment, home, and other social, political, or community contexts.
- Address and understand complex trauma<sup>29</sup> and the impacts of multiple victimizations trafficking survivors may have experienced, from sexual abuse and exploitation, forced labor, sexual assault, robbery, emotional abuse, and/or bullying.

## RECOMMENDATIONS

**We recommend DOJ, HHS, and HUD encourage and/or fund promising voucher and other housing programs for human trafficking survivors, including those that target underserved populations, are accessible to survivors (e.g., waive criminal record or credit related requirements), and offer long-term supports.**

Housing is one of the greatest barriers many survivors face in becoming self-sufficient. Many survivors face homelessness after their exploitation and have limited access to or knowledge of available local housing assistance services. Many short and long-term housing programs have few beds, services, and limited funds, particularly for underserved human trafficking populations, including but not limited to: men and boys, LGBTQIA2S+, black and brown communities, and youth who have aged out of foster care. Additionally, many survivors have disabling conditions, such as mental health conditions or substance use disorders, which impact their ability to access and receive housing assistance services.

Therefore, key aspects of DOJ, HHS, and HUD programs for housing services must include and/or address:

- Survivor-informed strategies to deliver promising housing programs to populations they aim to serve.

### NOTE TO CONGRESS AND THE SECRETARY OF STATE

Housing services and supports are critical to human trafficking survivors' recovery yet there are few, if any, programs that specifically target survivors and other programs that may serve them are woefully under-resourced with limited capacity and beds. We call upon Congress to mandate and/or the Secretary of State, as chair of the PITF, to invite HUD to join the PITF to promote interagency collaboration to address survivors' critical housing needs.

<sup>26</sup> The White House. (2021). *The National Action Plan to Combat Human Trafficking* (forthcoming).

<sup>27</sup> See, e.g., Brave Heart, M. Y. (2003). *The historical trauma response among Natives and its relationship with substance abuse: A Lakota illustration*. National Library of Medicine. <https://pubmed.ncbi.nlm.nih.gov/12733753/>

<sup>28</sup> See, e.g., The National Child Traumatic Stress Network. (n.d.). *Community violence*. <https://www.nctsn.org/what-is-child-trauma/trauma-types/community-violence>; Pinderhughes, H., Davis, R. A., & Williams, M. (2016, February). *Adverse community experiences and resilience: A framework for addressing and preventing community trauma*. Prevention Institute. <https://www.preventioninstitute.org/publications/adverse-community-experiences-and-resilience-framework-addressing-and-preventing>

<sup>29</sup> The National Child Traumatic Stress Network. (n.d.). *Complex trauma*. <https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma>



- Ways for survivors to directly access housing services without a referral from another service provider.
- Outreach and housing available for specific human trafficking survivor groups. For example, survivors with children, survivors with service animals, survivors who have experienced polyvictimization,<sup>30</sup> or survivors who need wraparound services.
- Barriers survivors may face that prevent them from accessing housing services. Common barriers include requirements that housing program participants have no criminal records, do not have substance use disorders or are in active detoxification, or do not have outstanding credit liens. Barriers may also include housing program restrictions that limit access to individuals based on whether they were victimized at their primary residence.
- Long-term and permanent housing supports with wraparound services that offer a continuum of care including, but not limited to, medical, mental health, and long-term substance use disorder treatment.

When conducting grant oversight, DOJ, HHS, and HUD should also implement accountability measures to oversee housing programs, or other programs that offer housing services, with a focus on training for staff on human trafficking indicators and protocols that ensure the safety of housing services recipients. HUD should also require survivor-informed training for public housing agency staff and housing property managers on indicators of human trafficking, trauma-informed approaches, and dispelling myths that prevent housing property managers from participating in housing voucher programs or renting homes to individuals who have experienced trafficking.

**We recommend the federal Human Trafficking Housing Working Group and the SPOG Victim Services Committee continue to identify and promote promising housing programs for human trafficking survivors.**

Public Housing Agencies and other housing providers are equivalent to first responders on the road to recovery for trafficking victims. Promising and best practices in safe and affordable housing are critical not only to housing programs but also in the lives of survivors. Safety is a high priority for survivors. Safety does not just include the prevention of further exploitation, but also safety from the societal and contextual norms that are often associated with living in low-income housing communities, relating to, for example, safety from drug trafficking or domestic violence.

We commend HHS, DOJ, and HUD for implementing a federal Human Trafficking Housing Working Group to focus on the critical needs and gaps survivors face in accessing safe and affordable housing services. We recommend that this Working Group be a long-standing or permanent one to continue to identify and address gaps in housing services for human trafficking survivors.

<sup>30</sup> For a definition of polyvictimization, see: Office of Juvenile Justice and Delinquency Prevention. (n.d.). *Trauma-informed care for children exposed to violence: Prevention tips for staff and advocates working with children: Polyvictimization*. U.S. Department of Justice. [https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/programs/safestart/TipSheetFor\\_Polyvictimization.pdf](https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/programs/safestart/TipSheetFor_Polyvictimization.pdf)

We recommend the federal Human Trafficking Housing Working Group promote existing resources on housing promising and best practices for human trafficking survivors to promote effective housing programs.<sup>31</sup> We also recommend the federal Human Trafficking Housing Working Group further identify and promote other federal, state, tribal, territorial, and local models (e.g., short-term, long-term with wraparound services, transitional, rapid re-housing, and permanent supportive housing programs) and promising interventions that serve human trafficking survivors and particularly underserved populations (see page 17). When identifying, assessing, and disseminating such information, consider the strategies listed at pages 18 and 19, as well as:

- How each housing organization addresses safety issues for the trafficking victims it serves.
- Whether programs have been evaluated and if their approaches or strategies are evidence-based or evidence-informed.
- If programs provide options for housing in safe locations and those preferred by survivors and not in close proximity to where they experienced trafficking.
- What partnerships housing programs have with victim service programs or the extent to which they engage in local anti-trafficking coalitions.

**We recommend DOJ/Office on Violence Against Women (DOJ/OVW) and DOJ/Office for Victims of Crime (DOJ/OVC) increase the capacity of housing programs for domestic violence and sexual assault victims to serve human trafficking survivors, including by supporting increased coordination between those housing programs and human trafficking service providers.**

It is common for victims of human trafficking to also experience domestic violence, sexual assault, stalking, and/or dating violence, commonly referred to as the four Violence Against Women Act (VAWA) crimes. It is also common for victims of human trafficking to not self-identify because they are not aware they are a victim of human trafficking in the first place. In other words, due to the severe manipulation, coercion, and trauma they endured, victims of human trafficking often do not fully understand the term human trafficking, or its definition, during their trafficking experience. Human trafficking is often not understood by victims until long after they have exited the life of trafficking and are on their journey of recovery. However, human trafficking victims might first seek services for several other victimizations, including those addressed through VAWA. Often, these services are exclusive to specific victimizations and do not include screening for polyvictimization, including human trafficking. Because of this, victims might not receive appropriate services leaving them vulnerable to further victimization. To help eliminate gaps in service provision for victims of human trafficking, we specifically recommend DOJ/OVW:

"I didn't identify as a trafficking victim because I didn't know that's what I was. I did, however, identify as someone who had been raped and beaten. I think I could have gone deeper in my healing if the agency that helped me work through my assault knew how to help me in my trafficking experience." – A Survivor

<sup>31</sup> See National Human Trafficking Training and Technical Assistance Center. (2021, October). *Housing programs for individuals experiencing housing instability or homelessness environmental scan: Outline of findings*. U.S. Department of Health and Human Services, Administration for Children and Families, Office on Trafficking in Persons. <https://nhhtac.acf.hhs.gov/sites/default/files/2021-10/NHTTAC%20Housing%20Environmental%20Scan%20Outline%20508c.pdf>

- Train grantees on how to identify potential human trafficking victims and to eliminate gaps in services for victims of human trafficking who also identify as victims of domestic violence, sexual assault, stalking, or dating violence.
- Support grantees in developing capacity to screen, refer, and provide services to human trafficking victims.
- Understand and adopt trauma-informed approaches to better understand the intersections of human trafficking and the four VAWA crimes.
- Promote the use of evidence-based human trafficking screening tools by all grantees.
- Collaborate with Survivor Leaders to inform practices and encourage grantees and applicants to partner, collaborate, or coordinate with Survivor Leaders and human trafficking service providers. Survivor Leaders, including, where possible, survivor consultants with experience working with federally-funded human trafficking training and technical assistance providers including those from OVC's Training and Technical Assistance Center, may inform OVC by supporting the review, design, and implementation of trauma- and survivor-informed practices.
- Coordinate with DOJ/OVC to encourage its human trafficking grantees to partner with OVC-funded service providers to enhance referrals.

**We recommend HHS/Substance Abuse and Mental Health Services Administration (HHS/SAMHSA) and HHS/Office on Trafficking in Persons (HHS/OTIP) increase coordination to support training development and state/local and state/tribal partnerships focused on mental health issues for human trafficking survivors.**

Mental health supports are often a critical component to a survivor's healing but are frequently difficult to access. Many survivors may initially reject mental health support due to a range of reasons that may be rooted in cultural norms, denial, or distrust of those who offer them. During the COVID-19 pandemic, instances of human trafficking have gone unabated or increased.<sup>32</sup> The frequency of mental health conditions and suicidal ideations among the general population have also been on the rise,<sup>33</sup> including for both survivors and individuals who are vulnerable to trafficking. The confluence of these circumstances necessitates increased collaboration between anti-trafficking and mental health systems.

We encourage HHS/SAMHSA and HHS/OTIP to coordinate to identify and define areas of inequities where underserved human trafficking populations may not be able to access needed mental health services. We further encourage HHS/SAMHSA and HHS/OTIP to support holistic treatment and services (such as those that address the unique needs of each individual and connect to the larger health, justice, and social service supports survivors may engage), but that also address issues of culture and collective healing. To reach and serve underserved populations in holistic ways, service providers must understand and address specific cultural nuances and beliefs, which may shun mental health supports, distrust government or other service providers, or misunderstand the benefits of mental health services. They also must understand and address collective traumas whole communities face that may prevent them from engaging in supportive mental health services.

<sup>32</sup> See, e.g., United Nations Office on Drugs and Crime. (2021). *The effects of the COVID-19 pandemic on trafficking in persons and responses to the challenges: A global study of emerging evidence*. [https://www.unodc.org/documents/human-trafficking/2021/The\\_effects\\_of\\_the\\_COVID-19\\_pandemic\\_on\\_trafficking\\_in\\_persons.pdf](https://www.unodc.org/documents/human-trafficking/2021/The_effects_of_the_COVID-19_pandemic_on_trafficking_in_persons.pdf)

<sup>33</sup> See, e.g., Panchal, N., Kamal, R., Cox, C., & Garfield, R. (2021). *The implications of COVID-19 for mental health and substance use*. <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/>



To promote increased access and use of mental health supports and substance misuse treatment among human trafficking survivors, HHS/SAMHSA and HHS/OTIP should:

- Share and promote models of coordination between anti-trafficking and mental health service providers as well as models that address the intersectionality between mental health and substance use disorders (e.g., substance, sex, internet, or food misuse) among trafficking survivors.
- Support increased coordination between local HHS/SAMHSA-funded mental health grantees and local anti-trafficking service providers to increase access and services to human trafficking survivors, especially underserved populations.
- Research and/or explore best practices on evidence-informed mental health services focused on complex trauma and culturally responsive mental health services to underserved human trafficking survivor populations.
- Provide mental health first aid training and tools to grantees that offer mental health resources so grantees can quickly assess and address the mental health needs of trafficking survivors early in program engagement.
- Encourage collaboration between the Interagency Task Force on Trauma-Informed Care and the PITF to address the intersectionality between human trafficking and mental health issues.
- Include human trafficking Lived Experience Experts (see page 7) in national advisory boards, councils, and committees (such as the Behavioral Health Coordinating Council), which address mental health issues for populations that may include human trafficking survivors.
- Support longer-term mental health counseling for survivors and their children and families.
- Expand specialized training to grantees and to the public on human trafficking and its indicators, including on subtopics related to underserved populations, such as: youth, indigenous populations, black and brown communities, LGBTQIA2S+ communities, boys and men, and people with special needs.

**We recommend ED update the “*Human Trafficking in America’s Schools*” guide<sup>34</sup> to encourage schools to partner with advocates who are Survivor Leaders and can support youth who have experienced trafficking in navigating various systems of care.**

Sex and labor trafficking child victims should be paired with and receive supports from Survivor Leaders who are connected with survivor-led organizations or other victim-service organizations in addition to other professionals serving them. Survivor Leaders are uniquely positioned to build rapport and trust with child victims, while mental and physical health, and social service professionals trained in identifying and responding to trafficking can help connect them to needed services and assure their rights through potential law enforcement processes. The combination of these supports provides young people holistic wraparound services and mentorship that both empower their voices and ensure their rights.

### THE IMPORTANCE OF SURVIVOR LEADERS

Engaging Survivor Leaders to support child victims is critical. It offers child victims a mentor and support person who has a shared understanding and experience, who can provide emotional support and act as a buffer to advocate for the child’s best interests while also building rapport and trust. Consider the scenario of a 13-year-old sex trafficking victim who has been interviewed by forensic child psychologists, law enforcement, and prosecutors in the criminal case against her trafficker. Fearful of facing her rapists and traffickers at trial and feeling shame for the things that happened to her, a survivor with a similar lived experience, can be engaged to provide support, act as a guide, and reaffirm her reactions and feelings and to help her navigate the criminal justice process. She gains a mentor and trusted adult, as well as confidence to continue to participate in the criminal justice process. She becomes empowered in her own voice and importantly in the understanding that she did nothing wrong.

**We recommend DHS/Blue Campaign further promote online safety prevention efforts for youth and underserved populations by creating a tool similar to iGuardian that specifically addresses human trafficking and targets individuals at-risk of human trafficking online, individuals exploiting others through human trafficking online, and/or potential online buyers of commercial sex from human trafficking victims.**

The victimization of youth and underserved populations involving the use of force, fraud, and coercion to groom and lure individuals into human trafficking takes place across every virtual platform, including all major social media, messaging applications, gaming platforms, and chat rooms. The Council calls upon PITF agencies to proactively improve efforts to combat the online facilitation of all forms of human trafficking.

We acknowledge DHS/Blue Campaign’s current social media outreach and public awareness campaigns that make a great impact online. We also commend DHS/Blue Campaign’s increasing efforts to include Survivor Leaders in the development of online educational content. We encourage DHS/Blue Campaign to continue to collaborate with Survivor Leaders to adopt trauma-informed approaches and ensure survivors are helping lead efforts to combat human trafficking.

The creation of the DHS iGuardian tool incorporated extensive knowledge, experiences, and methods from a multitude of sources and stakeholders, including technology industries, to inform approaches and solutions that assist in preventing and identifying child abuse cases. Although there has been success with iGuardian, this tool aims to combat online sexual exploitation of children broadly and is not focused exclusively on human trafficking.

<sup>34</sup> National Center on Safe Supportive Learning Environments. (2021). *Human trafficking in America’s schools: What schools can do to prevent, respond, and help students to recover from human trafficking* (2nd ed.). U.S. Department of Education, Office of Safe and Supportive Schools. <https://safesupportivelearning.ed.gov/human-trafficking-americas-schools>



We believe adding human trafficking information and data into the existing iGuardian tool would not have a significant impact in aiding the large number of trafficking victims and youth susceptible to human trafficking. We, therefore, encourage the DHS/Blue Campaign to support the development of a new H.T.Guardian or tGuardian tool that is devoted specifically to addressing sex trafficking among youth, with the potential for future expansion to address labor trafficking.

We encourage DHS/Blue Campaign to coordinate development of this tool with Survivor Leaders as well as other relevant federal agencies, including but not limited to

HHS and ED, to inform its content, design, and dissemination. This new Guardian tool can advance awareness, education, identification, and prevention of trafficking, and increase data collection pertaining to human trafficking cases by:

- Informing early detection and empowering underreporting populations and communities, including by creating self-screening tools to aid self-identification.
- Increasing identification and reporting by educating witnesses on indicators and identification tools.
- Dispelling misleading information and supporting the understanding of stigmas and stereotypes as well as harmful societal and cultural norms.
- Explaining and providing training on the different stages of grooming, as well as on the realities and methodologies of brainwashing, trauma bonds, coercion, and other control tactics and their effects.
- Educating through identifying and helping affected individuals break free from harmful disassociation, desensitization, and over-normalization used as survival coping skills and protective defense mechanisms.
- Promoting and increasing accessibility of data to enhance and facilitate partnerships with law enforcement and other allies to increase investigations, prosecutions, and convictions of exploiters and organized crime networks.
- Creating and implementing interactive education, curricula, and trainings on prevention and intervention, including not only for at-risk individuals but also for students, teachers, coaches, school counselors, and other applicable school staff, parents, and/or caretakers.
- Educating on the alarming realities of human trafficking on school campuses, including relating to: organized crime networks involving students, how to identify onsite spotters, how to identify students or staff who are pimps/traffickers, and training on the language and slang often used to conceal and communicate about trafficking/pimping.
- Educating on how to identify familial trafficking, including on generational trauma and cycles, historical trauma, cultural trauma, and other root causes and factors that increase susceptibility to exploitation.

- Sharing faith-based approaches, resources, and initiatives as options that empower Heaven's solutions.<sup>35</sup>

To create a relevant and actionable new Guardian tool requires an understanding of how the crime of human trafficking is facilitated on online platforms at alarming and increasing rates. While digital technology is in many respects perpetuating sexual and labor exploitation, we believe it can also be a powerful tool to combat human trafficking and promote awareness by applying new forensic technologies. In disseminating this new tool as well as promoting awareness DHS should consider distributing messages about human trafficking on online platforms including social media, such as Instagram, Twitter, Facebook, TikTok, YouTube, Snapchat, and Tinder; messaging apps such as Kik, MeetMe, and TextNow; and cash transfer programs and apps such as Cash App, Venmo, Zelle, and PayPal. Therefore, to strengthen and increase the development of this new tool as well as other public awareness campaigns focused on wraparound and holistic approaches, we recommend DHS/Blue Campaign consider targeting three main groups of individuals involved in organized networks of human trafficking and tailoring messaging to each groups' perspectives:

- **The victims:** exploited youth and underserved populations. These individuals make up the supply component of human trafficking, and are treated as "property," and experience trafficking for profit by their exploiter(s).
- **The consumers:** also known as buyers, customers, clientele, beneficiaries, and tricks. These individuals make up the demand component that fuels human trafficking.
- **The exploiters/recruiters:** also known as pimps/traffickers, the victim's "folks," "people," "family," or spotters, dealers, handlers, providers, and sellers. These individuals and organized networks recruit and produce the victims they claim ownership of to meet the demand of the consumers to profit from sex and/or labor exploitation.

**We recommend HHS/OTIP, HHS/Office of Child Care (HHS/OCC), and HHS/Office of Head Start (HHS/OHS) increase accessibility to child care and Head Start programs for human trafficking survivors.**

For survivors, safe child care and Head Start programming is essential for their children while they re-enter the workforce or participate in education or training opportunities. Survivors may fear for their child's safety after their trafficking experience, which may be significantly compounded for those survivors whose trafficker is their child's parent. They may also face financial barriers to access child care and may need parenting services and supports. Their children may also need healthy reunification, and trauma-specific treatments and supports based on their exposure to their parents' exploitation. Therefore, to support survivors in accessing safe and affordable child care and Head Start services, we specifically recommend HHS/OTIP, HHS/OCC, and HHS/OHS:

- Continue to or begin to support grantees in providing assistance to survivors with children to receive quality, safe, and convenient child care and Head Start programming.
- Promote training for child care and Head Start providers on human trafficking to be able address and respond to the needs of both survivors and their children.

<sup>35</sup> Heaven's solutions refers to offering options that include both secular tools, as well as faith-based and spiritual principles that are restorative, redemptive, and healing.



- Encourage increased coordination between victim services and child care or Head Start providers to offer coordinated services to entire families.

**We recommend DOJ, HHS, DOL, and DOC promote employment and economic empowerment opportunities, including entrepreneurship opportunities for human trafficking survivors, by increasing awareness of existing employment and training opportunities and by training American Job Center and employment program staff on working with human trafficking survivors.**

Economic empowerment and employment opportunities are critical to survivors' successful recovery. Even after survivors complete restorative care programs, the chances for revictimization significantly increase if survivors cannot achieve economic stability upon reintegration. We acknowledge the continued growth and importance of anti-trafficking agencies and organizations to hire survivors and promote survivor leadership. But to further increase economic sustainability among survivors, it is important to provide as many employment and education options as possible. Many survivors wish to leave their trafficking experiences in the past. If organizations and service providers are only equipping survivors to work within the anti-trafficking sector, it limits the potential of survivors and may cause further harm by keeping survivors feeling trapped in a field that is tied to their trafficking experience. As such, it is necessary to provide opportunities for employment and economic empowerment outside of anti-trafficking sectors. We aim to empower survivors to be leaders in their communities, not just in the anti-trafficking space.

Therefore, we encourage DOJ, HHS, DOL, and DOC to promote and establish public-private partnerships between government, reputable NGOs that focus on economic empowerment, and businesses outside of the anti-trafficking field to provide paid internships, apprenticeships, and job opportunities for survivors. We also encourage DOJ and HHS to continue to diversify employment supports and opportunities for survivors.



We encourage DOL and DOC to deliver training and technical assistance to employment programs and grantees, specifically focused on working with and supporting human trafficking survivors. We encourage DOC to increase access to and awareness of its job creation initiatives for survivors of human trafficking and populations at risk of potential trafficking. Additionally, we recommend DOL encourage American Job Centers to increase outreach and promotion of its services to human trafficking survivors and to populations at risk of potential trafficking.

Lastly, we recommend expanding DOJ/OVC economic empowerment programs such as the Promoting Employment Opportunities for Survivors of Trafficking Training and Technical Assistance Project,<sup>36</sup> and explore partnerships with organizations, including survivor-led organizations, that focus on promoting entrepreneurship skills and training to further increase economic empowerment and stability for survivors of human trafficking, including underserved populations.

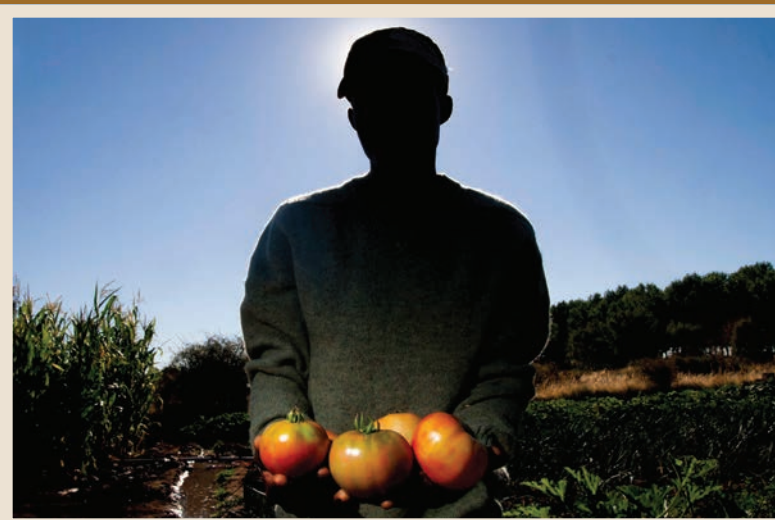
<sup>36</sup> Futures without Violence. (2017). *Promoting Employment Opportunities for Survivors of Trafficking Training and Technical Assistance Project*. <https://www.futureswithoutviolence.org/human-trafficking/promoting-employment-opportunities-survivors-trafficking/#:~:text=The%20Promoting%20Employment%20Opportunities%20for,for%20survivors%20of%20human%20trafficking>

# Committee on Administration of Justice

## OVERVIEW

The Committee on Administration of Justice seeks to strengthen accountability efforts. The Committee aims to work primarily with law enforcement agencies to: 1) encourage collaboration with survivors through a multidisciplinary approach; 2) ensure the enforcement of the victims' bill of rights to support victims and their families; and 3) promote promising practices to increase prosecutions of various forms of trafficking. Our priorities include promoting:

- Promising practices to increase prosecutions.
- Domestic grantmaking that strengthens federal, state, tribal, territorial, and local law enforcement.
- Protections for foreign national victims of trafficking.



## RECOMMENDATIONS

**We recommend PITF agencies increase awareness of and adopt best practices to uphold the rights of victims of human trafficking as outlined in the Crime Victims' Rights Act.**

Prosecutors and law enforcement officers often perceive that victims of trafficking do not wish to cooperate as witnesses during criminal proceedings. Through the lens of a victim, there is more at stake than for any other witness involved. Victims of crime experience two types of trauma during the pendency of court proceedings: 1) reliving the trauma they endured; and 2) encountering inequities within the criminal justice system that prevent them from focusing on their present lives. Following their lived experience, many survivors may not understand their victimization as trafficking. It is not until years of healing from trauma that a survivor truly understands the nature of the crimes committed against them. Similarly, many victims, even if told by the prosecutor or victim advocate, still do not fully understand their rights throughout the court process.

To gain meaningful input and cooperation from victims of crime, law enforcement, attorneys, federal victim-witness specialists, and judicial officials should adopt survivor-informed approaches to ensure victims understand their rights. The Victims' Rights and Restitution Act of 1990 codifies services that should be available to all victims of crime including human trafficking survivors. The Crime Victims' Right Act provides rights afforded

to victims of crime, including human trafficking victims, such as the right to notification of their case, the right to full and timely restitution as provided by certain statutes, and the right to be treated with fairness and with respect for the victim's dignity and privacy (see Appendix B). Therefore, we recommend all PITF agencies working on behalf of victims of crime:

- Incorporate protocols with all federal prosecutors and federal law enforcement offices that not only explain the Crime Victims' Rights Act to victims of crime but also provide a copy of these rights to victims and their families at the start of and throughout the criminal justice process, including when circumstances change over the course of the case (such as a change in attorney, a continuance of the case, or an appeal).
- Prominently post the Victims' Rights and Restitution Act of 1990 and Crime Victims' Rights Act on agency websites and social media handles to raise awareness and ensure individuals understand the rights and services afforded to them.<sup>37</sup>
- Strongly encourage and provide tools to grantees to advertise or post copies of the Victims' Rights and Restitution Act of 1990 and Crime Victims' Rights Act on their respective websites as reminders of the rights of victims they serve.
- Explore and promote additional protections (as noted in the box below) under the Victims' Rights and Restitution Act of 1990 and the Crime Victims' Rights Act that are peer-reviewed and co-developed by survivors.

#### NOTE TO CONGRESS

We encourage Congress to amend the Victims' Rights and Restitution Act of 1990 and the Crime Victims' Rights Act to add additional protections and rights that are drafted and peer reviewed alongside Survivor Leaders of trafficking and that prioritize:

- The implementation of trauma-informed approaches when working with survivors.
- The right to culturally inclusive and linguistic services.
- The right to appointed assistance in applying for T visas (including immigration support to individuals and their qualified family members).
- The right to a court-appointed advocate or legal assistance throughout the criminal case.
- Informing victims of public and private programs that include legal services available to victims, in addition to counseling and treatment services.

<sup>37</sup> Including on the U.S. Department of State website dedicated to the federal response to human trafficking: U.S. Department of State. (n.d.). *Federal response on human trafficking*. <https://www.state.gov/humantrafficking>



**We recommend HHS, DOJ, and DHS address the gaps and issues relating to the intersection between pornography, human trafficking, and child sexual exploitation.**

As of November 2020, 16 U.S. states have passed resolutions recognizing pornography as a public health issue.<sup>38</sup> It is time that the federal government also take deliberate action to acknowledge the direct links between pornography and human trafficking and address it as a threat to society and particularly to youth, minority, and LGBTQIA2S+ populations.<sup>39</sup>



We, therefore, specifically recommend HHS allocate resources to fund research on the public health harms of pornography and launch a comprehensive effort to abate the pervasive and disproportionate abuse of minority peoples that escalates, fetishizes, and normalizes racism.<sup>40</sup> This effort should also address the correlation between pornography consumption and sexual violence, as well as the correlation between pornography use and sex buying behaviors.<sup>41</sup>

Further, individuals' increased presence online during the COVID-19 pandemic has created 'big data' challenges in internet policing and identifying instances of human trafficking. For example, 2020 was a record-breaking year, with more than 21.7 million reports of suspected child sexual exploitation made to NCMEC's CyberTipline. This marks the highest number of reports ever received in one year.<sup>42</sup> The astounding volume of reports of child sexual exploitation indicates a pervasive problem. For instance, a rapidly growing area of child sexual abuse material (CSAM) in circulation online, commercially traded, and consumed by communities of abusers appears to be self-generated.<sup>43</sup> Law enforcement agencies often find that sex trafficking victims, and victims of child sexual abuse material, are coerced into creating livestream or webcam pornography.<sup>44</sup> Regardless of whether force, fraud, or coercion exists, when a person under 18 years old is induced to perform a commercial sex act, they become a victim of human trafficking.<sup>45</sup>

"Being raped wasn't the worst thing...knowing that the crime scene footage has been uploaded and monetized for the erotic pleasure of others is an on-going kind of terror."  
— A Survivor

<sup>38</sup> Fight the New Drug. (2020, November). *These 16 U.S. states passed resolutions recognizing pornography as a public health issue.* <https://fightthenewdrug.org/here-are-the-states-that-have-passed-resolutions/>

<sup>39</sup> Xian, K., Chock, S., & Dwiggin, D. (2017). LGBTQ youth and vulnerability to sex trafficking. In M. Chisolm-Straker & H. Stoklosa (Eds.), *Human trafficking is a public health issue: A paradigm expansion in the United States* (pp. 141). Springer Nature. <https://doi.org/10.1007/978-3-319-47824-1>

<sup>40</sup> Fritz, N., Malic, V., Paul, B., & Zhou, Y. (2020). Worse than objects: The depiction of black women and men and their sexual relationship in pornography. *Gender Issues*, 38(1), 100–120. <https://doi.org/10.1007/s12147-020-09255-2>

<sup>41</sup> Vera-Gray, F., McGlynn, C., Ibad, K., & Butterby, K. (2021, September). Sexual violence as a sexual script in mainstream online pornography. *The British Journal of Criminology*, 61(5), 1243–1260. <https://doi.org/10.1093/bjc/azab035>

<sup>42</sup> O'Donnell, B. (2021, February 24). *Rise in online enticement and other trends: NCMEC releases 2020 exploitation stats.* National Center for Missing & Exploited Children. <https://www.missingkids.org/blog/2021/rise-in-online-enticement-and-other-trends--ncmec-releases-2020->

<sup>43</sup> Benenson Strategy Group, & Thorn. (2020, February) *Self-generated child sexual abuse material: Attitudes and experiences: Findings from 2019 qualitative and quantitative research among 9-17 year olds and caregivers.* [https://www.intgovforum.org/multilingual/sites/default/files/webform/combating\\_sg-csam\\_report\\_2019\\_20200305\\_final.pdf](https://www.intgovforum.org/multilingual/sites/default/files/webform/combating_sg-csam_report_2019_20200305_final.pdf)

<sup>44</sup> Id.

<sup>45</sup> Office on Trafficking in Persons. (2017, November 21). *Fact sheet: Human trafficking.* [Fact sheet]. U.S. Department of Health and Human Services, Administration for Children and Families. [https://www.acf.hhs.gov/sites/default/files/documents/otip/fact\\_sheet\\_human\\_trafficking\\_fy18.pdf](https://www.acf.hhs.gov/sites/default/files/documents/otip/fact_sheet_human_trafficking_fy18.pdf)



Consequently, the federal government needs new and sophisticated data analysis tools and resources to identify and investigate CSAM and non-consensual sexual imagery shared on virtual platforms to facilitate the timely and successful prosecution of nefarious online actors and entities. In particular, law enforcement needs new forensic technologies to enable agents to locate crime scenes, rescue victims, and apprehend perpetrators who are using digital platforms to traffic humans. We, therefore, also recommend that DOJ and DHS allocate resources to develop digital forensic tools to aid law enforcement in identifying potential human trafficking signals in social media and to manage, manipulate, analyze, and graphically represent large data sets investigators must review and assess in warrant returns.

In addition, the 94 United States Attorneys' Offices are mandated to enforce federal obscenity laws. FBI agents, postal inspectors, and customs officers are responsible for investigating violations of federal obscenity laws. Pornography is the marketing department for sex trafficking. It has been shown to influence sex buying behaviors and much of it is produced by force, fraud, and coercion.<sup>46</sup> A robust enforcement of federal obscenity laws will therefore reduce the demand driving sex trafficking and protect those that are being victimized in the production of pornography. Therefore, we call upon federal law enforcement agencies to investigate and DOJ to prosecute federal obscenity laws actively, aggressively, and to the fullest extent of the law, including:

- 18 U.S.C. § 1461 Mailing obscene or crime-inciting matter
- 18 U.S.C. § 1462 Importation or transportation of obscene matters\*
- 18 U.S.C. § 1464 Broadcasting obscene language
- 18 U.S.C. § 1465 Production and transportation of obscene matters for sale or distribution\*
- 18 U.S.C. § 1466 Engaging in the business of selling or transferring obscene matter
- 18 U.S.C. § 1466(a) Obscene visual representations of the sexual abuse of children
- 18 U.S.C. § 1468 Distributing obscene material by cable or subscription television
- 18 U.S.C. § 1470 Transfer of obscene material to minors
- 18 U.S.C. § 2252B Misleading domain names on the Internet
- 18 U.S.C. § 2252C Misleading words or digital images on the Internet
- 47 U.S.C. § 223 Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications

*\*Sections 1462 and 1465 cited above also prohibit distribution of obscenity on the Internet<sup>47</sup>*

<sup>46</sup> Clark-Flory, T. (2018). *Porn actors Leigh Raven and Riley Nixon allege abuse, violence, and boundary violation on set.* Jezebel. <https://jezebel.com/porn-actors-leigh-raven-and-riley-nixon-allege-abuse-v-1823677195>

<sup>47</sup> U.S. Department of Justice. (2020, May 28). *Citizen's guide to U.S. federal law on obscenity.* <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-obscenity>

## NOTE TO CONGRESS

Sex trafficking of children and adults has proliferated online in part because Section 230 of the Communications Decency Act of 1996 (CDA) has been interpreted by federal and state courts to: 1) prohibit sex trafficking victims from suing websites that advertise them as being for sale; and 2) prevent states from enforcing criminal laws against websites that carry ads for sex trafficking. The technology industry has effectively used Section 230 to avoid responsibility for and profit from illegal activities that continue unabated on their platforms.\* Despite the passage of the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 tech-savvy internet traffickers have already leapt ahead using various ploys including utilizing foreign-based corporations and servers, which operate outside the reach of U.S. law, to advertise, exploit, and traffic American children on American soil.

Federal enforcement alone has proven insufficient in combating the growth of online commercial sexual exploitation of children. State, territorial, tribal, and local law enforcement must have the necessary digital forensics tools and clear authority to investigate and prosecute those who profit from these crimes. Additionally, removing civil immunity for companies that are complicit in child sexual exploitation on their platforms will create a necessary incentive for the technology industry to become proactive in protecting the most vulnerable in our society.

Therefore, we recommend Congress amend Section 230 of the CDA to empower victims and their attorneys, and states, territories, tribes, and localities to use all applicable criminal and civil laws to effectively combat human trafficking, including the commercial sexual exploitation of children online.

### Sources:

\*See, e.g., National Center on Sexual Exploitation. (n.d.). *Stop online sex trafficking*. <https://endsexualexploitation.org/cda/>; Selyukh, A. (2018). *Section 230: A key legal shield for Facebook, Google is about to change*. <https://www.npr.org/sections/alltechconsidered/2018/03/21/591622450/section-230-a-key-legal-shield-for-facebook-google-is-about-to-change>; National Center on Sexual Exploitation. (2021, June 9). *A look into Onlyfans: Child sexual abuse material and trafficking*. <https://endsexualexploitation.org/articles/a-look-into-onlyfans/>; Titheradge, N., & Croxford. (2021, May 27). *The children selling explicit videos on Onlyfans*. <https://www.bbc.com/news/uk-57255983>

**We recommend DOJ and DHS increase labor trafficking investigations and prosecutions by enhancing interagency partnerships; leveraging existing data on labor trafficking; coordinating with DOL to use existing data on U.S. based employers and farm labor contractors and its third-party agents, such as foreign labor recruiters; and engaging labor market experts.**



When demand for labor increases, so too can instances of labor exploitation.<sup>48</sup> According to Polaris, while demand for labor in most industries, such as hospitality, decreased during the COVID-19 pandemic, demand for labor increased in other industries, such as agriculture.<sup>49</sup> In addition, “among reported labor trafficking victims, there was more than a 70 percent increase in those who held H-2A visas from less than 400 in a 6-month period to more than 600 in a similar period of time during the pandemic.”<sup>50</sup>

<sup>48</sup> See, e.g., Zimmerman, C., & Kiss, L. (2017). Human trafficking and exploitation: A global health concern. *PLoS Medicine*, 14(11). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5699819/>

<sup>49</sup> Polaris. (2021, June 23). *Labor exploitation and trafficking of agricultural workers during the pandemic*. <https://polarisproject.org/resources/labor-exploitation-and-trafficking-of-agricultural-workers-during-the-pandemic/>

<sup>50</sup> Id.

Increasing awareness among the public and the employment sector as well as increasing investigations and prosecutions are critical to combating labor trafficking. We commend PITF agencies for agencies' efforts to increase awareness about labor trafficking through trainings, webinars, and public awareness campaigns.<sup>51</sup> But data from State's 2021 Trafficking in Persons Report highlights that there continues to be few labor trafficking investigations or prosecutions. In Fiscal Year 2020 (FY2020), there were only 44 DOJ investigations involving labor trafficking. In addition, federal labor trafficking prosecutions have been on the decline for several years. Of DOJ's 210 prosecutions in FY 2020, "195 involved predominantly sex trafficking and 15 involved predominantly labor trafficking, compared to 208 and 12 in FY 2019; 213 and 17 in FY 2018; and 266 and 16 in FY 2017, respectively."<sup>52</sup> By contrast, the National Human Trafficking Hotline has reported between 734 and 1,276 potential labor trafficking cases each year for the last several years.<sup>53</sup>

We therefore specifically recommend DHS and DOJ collaborate with other agencies and initiatives to gather and analyze data (including potential trends of labor exploitation in specific regions or industries) that could increase labor trafficking investigation efforts. This data collection can further improve approaches to identify and address potentially exploitive labor practices. This effort should include:

- Coordinating in compiling, organizing, and analyzing existing data sets between DOJ, DHS, DOL, State, USDA, and HHS that account for data privacy protections and help DOJ and DHS better understand how, where, and when to pursue investigations.
- Reviewing and analyzing local and national hotline data sets, such as those funded by non-law enforcement agencies, including HHS/Office of Refugee Resettlement (HHS/ORR), and the National Human Trafficking Hotline to develop a better understanding of the industries and geographic locations most vulnerable to labor trafficking and to inform follow-up, investigative, and prosecutorial efforts in labor trafficking cases.
- Leveraging other labor-related data sources, such as DOL's lists of debarred entities,<sup>54</sup> to identify employers, contractors, and their agents that are not authorized to participate in certain non-immigrant visa programs or DOL programs as a result of non-compliance (or criminal activity).

**We recommend DOJ evaluate the effectiveness of Enhanced Collaborative Models to Combat Human Trafficking (ECMs) as well as support ECMs in improving their data collection efforts and incorporating survivors' voices.**

Since 2004, DOJ/Office of Justice Programs has supported multidisciplinary approaches to aid in the identification of human trafficking victims and prosecution of perpetrators. The ECM is one such approach that brings together law enforcement, prosecutors, victim service providers, and other key stakeholders at the local, state, tribal, and federal levels to assist communities in creating task forces that implement victim-centered approaches to identify victims of sex and labor trafficking, provide services to victims, and investigate

<sup>51</sup> Office to Monitor and Combat Trafficking in Persons. (2021). *2021 Trafficking in Persons report: United States*. U.S. Department of State. <https://www.state.gov/reports/2021-trafficking-in-persons-report/united-states/>

<sup>52</sup> Id.

<sup>53</sup> Polaris. (n.d.). *Hotline statistics*. <https://humantraffickinghotline.org/states>

<sup>54</sup> See, e.g., Employment and Training Administration. (2021). *Office of Foreign Labor Certification: Program debarments*. U.S. Department of Labor. [https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Debarment\\_List.pdf](https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/Debarment_List.pdf)



and prosecute human trafficking.<sup>55</sup> We recommend DOJ conduct rigorous evaluations of the effectiveness and outcomes of ECMs as well as implementation strategies, costs, and benefits.

We also encourage DOJ to support ECMs in improving their services. ECMs often face challenges in engaging with those at-risk of human trafficking. In 2018, DOJ shared a snapshot of self-reported DOJ/Bureau of Justice Assistance law enforcement partner grantee data from a subset of ECMs, showing that only about half of reporting ECMs had developed policies related to referrals and information sharing.<sup>56</sup> To be victim-centered and trauma-informed and to improve outreach efforts, ECMs must have a better understanding of the communities and populations they serve. This includes a specific understanding of the types of trafficking that exist in local communities in which ECMs operate (e.g., labor and/or sex trafficking), the types of vulnerable populations affected (e.g., youth, adults, citizens, noncitizens), and the experiences and needs of local victims.

We, therefore, also recommend DOJ encourage ECM grantees to enhance local data collection and community assessment efforts to include demographics of victims, types of exploitation experienced, and statistics around provision of post-victimization support services. ECM members must also dedicate resources, through training and partnerships, to gain a better understanding of how culture, gender identity, and spirituality can play a role in victimization specific to the communities they serve (see box).

In addition, we recommend DOJ incorporate survivors' voices into future ECM grant solicitations, mandating that ECMs formally partner, compensate, and fairly attribute work to local Survivor Leaders and survivor-led organizations that can help ECMs connect with and support victims. With stronger data and through the incorporation of survivor voices, ECMs will be able to develop targeted outreach messages and materials that resonate with victims in their local areas. To assist in recovery, DOJ could also promote partnerships with organizations that address common needs of victims such as those relating to job training, financial literacy/stability, education, and immigration. Finally, ECM efforts to include survivors' voices and cultural experiences should further be reviewed and evaluated annually for ongoing improvement opportunities.

### CULTURAL IDENTITY AND HUMAN TRAFFICKING

Family honor and the preservation of cultural values may preclude a victim from coming forward to disclose their trauma out of fear of judgment and banishment from family members as well as cultural leaders in their community. By building partnerships with culturally specific organizations, ECMs may empower survivors and their families to not only acknowledge the trauma they endured, but also to seek out and use ECM resources.

<sup>55</sup> Bureau of Justice Assistance, & International Association of Chiefs of Police. (2020). *Enhanced collaborative model to combat human trafficking*. <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/enhanced-collaborative-model-to-combat-human-trafficking-1-2020.pdf>

<sup>56</sup> Bureau of Justice Assistance. (n.d.). *Enhanced collaborative model task force to combat human trafficking program: Performance update report, fiscal years 2016–2018*. U.S. Department of Justice. <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/ECM-Program-Performance-Update-Report-FY16-18.pdf>



**We recommend that DOJ/Human Trafficking Prosecution Unit (DOJ/HTPU) and the Executive Office for United States Attorneys (DOJ/EOUSA) implement a fellowship similar to DOJ/OVC's "Human Trafficking Survivor-Informed Services Fellowship"<sup>57</sup> to inform the development, revision, and delivery of training and protocols for federal prosecutors.**

We thank DOJ/HTPU and DOJ/EOUSA for meeting with the Council and expressing their priorities relating to including survivor's voices and perspectives in trainings, and for following up to further collaborate. We are aware, however, as noted in the 2016 and 2017 U.S. Advisory Council on Human Trafficking reports<sup>58</sup> and our more recent engagements that DOJ is unable to share many law enforcement training materials for the Council to review due to the sensitive and proprietary nature of the material.

To meaningfully include critical survivor inputs while respecting this important safeguard, we recommend that DOJ/HTPU and DOJ/EOUSA create a fellowship position for a Survivor Leader with relevant expertise to be hired, and given access to this proprietary training material, to review and provide feedback on existing trainings and procedures, consult in developing new trainings and procedures, and deliver or co-deliver trainings. Relevant expertise may include but is not limited to: knowledge about traffickers' tactics, experience participating in a trafficking prosecution, law enforcement experience, legal experience, legal consulting experience, extensive training experience, and expert witness experience.

DOJ/HTPU and DOJ/EOUSA may draw from lessons learned and emulate DOJ/OVC's "Human Trafficking Survivor-Informed Services Fellowship" which employed Survivor Leaders to "enhance efforts to facilitate the understanding, development, or enhancement of innovative programs, models, practices, and protocols."<sup>59</sup> This three-year fellowship led to many important developments, such as the creation of the "Practical Guide: Survivor-Informed Services."<sup>60</sup>

The Council eagerly offers its assistance in creating and recruiting for this fellowship position if DOJ/HTPU and EOUSA desire.

**We recommend DOJ create a Victim Wellness Assessment to be used by law enforcement victim specialists to assess and, if needed, connect victims to immediate and critical support services during the investigation and prosecution process.**

Successful prosecution of traffickers is a critical component to combating human trafficking. The investigation and prosecution process can be lengthy, arduous, and intimidating for all parties involved, including law enforcement, attorneys, advocates, juries, judges, witnesses, victims, victims' families, and even defendants. One party, however, inherently carries a high amount of stress, anxiety, and vulnerability: the victim. For victims, carrying these emotions and bearing other hardships, can make the process unbearable. Some may retreat from the legal process entirely; some may struggle with mental health issues, be unable to meet their most basic needs, and/or have strained relationships or a limited support system.

<sup>57</sup> Office for Victims of Crime. (2016). *Human trafficking survivor-informed services fellowship*. U.S. Department of Justice. <https://ovc.ojp.gov/funding/awards/2016-vf-gx-k015>

<sup>58</sup> United States Advisory Council on Human Trafficking. (2016). *United States Advisory Council on Human Trafficking annual report 2016*. U.S. Department of State. <https://www.state.gov/united-states-advisory-council-on-human-trafficking-annual-report-2016/>; U.S. Advisory Council on Human Trafficking. (2017). *United States Advisory Council on Human Trafficking annual report 2017*. U.S. Department of State. <https://www.state.gov/united-states-advisory-council-on-human-trafficking-annual-report-2017/>

<sup>59</sup> Office for Victims of Crime. (2016). *Human trafficking survivor-informed services fellowship*. U.S. Department of Justice. <https://ovc.ojp.gov/funding/awards/2016-vf-gx-k015>

<sup>60</sup> Cho, K. (n.d.). *Practical guide: Survivor-informed services*. Office for Victims of Crime, Human Trafficking Capacity Building Center. [https://htcbc.ovc.ojp.gov/sites/g/files/xyckuh311/files/media/document/Practical\\_Guide\\_Survivor\\_Informed\\_Services.pdf](https://htcbc.ovc.ojp.gov/sites/g/files/xyckuh311/files/media/document/Practical_Guide_Survivor_Informed_Services.pdf)

We, therefore, recommend that DOJ create a Victim Wellness Assessment to help support victims to endure the investigation and prosecution process. This tool will help connect victims to needed services quickly and ultimately help them have a better chance at thriving after the prosecution ends. This tool should not only be effective at obtaining necessary information in a trauma-informed way, but also drafted so that it is actionable and understandable to the people administering it. Some important factors the Victim Wellness Assessment should assess include:

- Access to safe, stable, and consistent housing.
- Access to food on a consistent and daily basis.
- Access to mental health supports on a consistent basis.
- Presence and/or persistence of suicidal ideation.
- Access to healthy and supportive family, friends, or other networks.
- Perceived ability and means to become a part of a community of survivors.

If through the administration of the Victim Wellness Assessment a victim is found to be unwell or in need of support in any of the critical areas it assesses, the victim specialist can address and help rectify such issues by connecting the victim with local NGOs and national resources such as suicide hotlines, free mental health services, and national human trafficking survivor networks.

To develop and disseminate the Victim Wellness Assessment, we recommend DOJ:

- Work with HHS, Survivor Leaders, NGO advocates, mental health professionals, legal advocates, local and federal law enforcement, and local and federal prosecutors to co-develop this new tool.
- Pilot the Victim Wellness Assessment first with a small subset of victim specialists to test its efficacy and make necessary changes.
- Offer training, desk aids, and other tools on how to administer the Victim Wellness Assessment. Training topics could include trauma-informed motivational interviewing and national resource lists.
- Disseminate the Victim Wellness Assessment to DOJ/HTPU and United States Attorney Offices' victim specialists as well as other DOJ-funded task forces.

### **We recommend DOJ promote diversion programs and alternatives to incarceration for both minor and adult victims of trafficking.**

Many sex and labor trafficking victims may be forced to engage in criminal activity during their trafficking experience and may even face state, territorial, tribal, or local arrest or charges. We applaud DOJ's efforts to encourage and support state, territorial, tribal, and local alternatives to incarceration, particularly among youth involved in the family court system.<sup>61</sup> Emerging literature and research shows both the cost efficiencies and potential value for program participants of diversion efforts.<sup>62</sup> We encourage DOJ to explore,

<sup>61</sup> Office for Victims of Crime. (2021). OVC FY 2021 enhancing juvenile and family court responses to human trafficking pre-application webinar. U.S. Department of Justice. <https://ovc.ojp.gov/events/ovc-fy-2021-enhancing-juvenile-and-family-court-responses-human-trafficking-pre-application>

<sup>62</sup> See, e.g., O'Neill, C. M. (2016). *Restorative justice as diversion in California's juvenile and criminal justice systems: Potential impacts and state policy*. [https://sor.senate.ca.gov/sites/sor.senate.ca.gov/files/Restorative%20Justice%20in%20CA%20report\\_ONeil\\_6-14-16.pdf](https://sor.senate.ca.gov/sites/sor.senate.ca.gov/files/Restorative%20Justice%20in%20CA%20report_ONeil_6-14-16.pdf)

research, and promote promising practices in diversion and alternatives to incarceration among its anti-trafficking programs. Specifically, we recommend DOJ:

- Research and disseminate information about promising or evidence-based state, territorial, tribal, and local diversion and alternatives to incarceration programs for both minors and adult victims of trafficking that also do not unintentionally cause deeper victim involvement in criminal justice systems.
- Promote evidence-informed diversion programs for survivors that do not require victims to testify or cooperate in an investigation in order to participate in the diversion program.
- Promote and/or support programs offering evidence-informed diversion services that have experience working directly with human trafficking survivors and understand the complexities of human trafficking.
- Engage with Lived Experience Experts to identify promising diversion and alternatives to incarceration programs as well as to identify key trauma-informed approaches that these programs should implement.

**We recommend HHS/ORR enhance coordination for follow up supports with local service providers for recent asylees and refugees who may be vulnerable to trafficking to ensure their safety and access to needed services.**

Recent asylees and refugees are particularly vulnerable to trafficking when they first arrive in the United States. Despite available support services, cash, and medical assistance, as well as job and employment services, some have limited access or knowledge of these services. Further, some who have been brought to the United States under false pretenses may be prevented by their traffickers from accessing needed supports. Therefore, we encourage HHS/ORR to offer enhanced training and technical assistance to resettlement services grantees on:

- Implementing initial and ongoing screening to identify potential human trafficking.
- Adopting trauma-informed approaches when interacting with recent asylees and refugees to build rapport and trust as fear of government and deportation may prevent human trafficking victims from disclosing their exploitation.
- Offering translation supports and services to ensure recent asylees and refugees are able to access and understand their rights and the services available to them.

"I am one of many human trafficking survivors who was brought to the United States under false pretenses. Despite moving through the visa application interview and processes, I was not aware of the risks I faced coming into this country, nor did I know my rights or where to go for help during my trafficking experience in this country. I was led to believe that I should fear and not trust the government. I slipped through the cracks." — A Survivor

**We recommend State, in diplomatic engagements, prioritize encouraging foreign governments to increase consular assistance to their respective citizens who identify as victims in the United States and in other countries.**

Many victims are brought to the United States or other countries by their traffickers using fraudulent documents which result in the victim not having identifying documents from their country of origin. When they do receive identity documents in the United States, the information may not match the documents from their birth country (e.g., a birth certificate). Reconciling victims' U.S.-issued identification with identifying documents from their birth country is an important aspect of victim protection since many may experience difficulties engaging with their countries' consular offices when attempting to either obtain documents, like a birth certificate, or to locate and reconcile with their families. Not only does this documentation allow the victim access to information or services in their country of origin, but it also empowers the victim by allowing them to reclaim their identity, which traffickers falsified or replaced during the victim's exploitation. We, therefore, recommend State:

- Increase efforts to encourage foreign governments to offer consular services to their citizens who identified as victims in the United States and other countries as well as encourage foreign governments to ensure victims have accurate and official personal identification documents from their birth country.
- Encourage foreign governments to recognize the victim certification letter that HHS issues under section 107(b) of the Trafficking Victims Protection Act of 2000, or the equivalent document in other countries, to recognize a victim's status.
- Document the progress made from diplomatic engagements on this topic in the annual State Trafficking in Persons Report.

**We recommend State increase messaging and outreach on visa application processes and forms to ensure applicants understand their rights and responsibilities.**

Many foreign national human trafficking survivors have struggled to complete visa application forms or experienced confusion in understanding visa application processes and requirements. In many instances, they may be lured into paying unnecessary fees, forced by their trafficker to sign visa application forms without reviewing them, or coerced into completing visa application forms without understanding what they are or why they are completing them. To increase messaging on applicants' rights and responsibilities, we encourage State to:

- Leverage the resources of the State Human Trafficking Expert Consultant Network<sup>63</sup> (the Network) to help review visa application forms and processes to ensure they are accessible, in plain language, easy to understand, are streamlined, and trauma- and survivor-informed.
- Further engage Network consultants or other Survivor Leaders to review both the Wilberforce Pamphlet<sup>64</sup> and processes around when and how it is shared with visa applicants to ensure a trauma- and survivor-informed process that effectively shares resources and supports for potential victims of trafficking.

<sup>63</sup> U.S. Department of State. (2019). *Survivor Leadership*. <https://www.state.gov/humantrafficking-survivor-leadership/>

<sup>64</sup> Bureau of Consular Affairs. (n.d.). *Rights and protections for temporary workers*. U.S. Department of State. <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/temporary-workers.html>



- Enhance existing training for consular officers reviewing and administering visa application processes on human trafficking indicators to include a specific focus on how traffickers may circumvent, exploit, or manipulate visa application processes, including instances when traffickers fraudulently complete application forms of those they victimize to traffic them into the United States.

**We recommend DHS continue to make efforts to increase awareness and accessibility of T visas and to reduce the backlog of T visas.**

The COVID-19 pandemic along with other global disasters displaced many people, caused them to shelter in unsafe places, and increased the likelihood of exploitation. The number of victims of trafficking seeking U and T visas continues to be high.<sup>65</sup> It is widely known that foreign victims of human trafficking also continue to face significant barriers when seeking legal immigration status, which also impacts their ability to obtain employment and achieve self-sufficiency.

After exploitation, most foreign national human trafficking victims face significant challenges in navigating a complicated immigration system. It can take as long as between 20 and 43 months to process a T visa application.<sup>66</sup> This is a time when victims are at their most vulnerable and may be unable to lawfully work while their immigration status is pending if they do not have Continued Presence. This lengthy wait exposes victims to potential re-exploitation—for some reentering the cycle of trafficking becomes a last resort to survival.

In addition, foreign national human trafficking victims also navigate multiple, sometimes duplicative, and difficult to follow processes to prove eligibility for their T visas, including but not limited to: having to prove to law enforcement that they are indeed victims of a severe form of human trafficking as defined by federal law; and providing statements about their experiences to support a law enforcement agency's completion of an I-914, Supplement B, Declaration of Law Enforcement Officer for Victims of Trafficking in Persons. This process, in very real and tangible ways, can re-traumatize the victim, who may have to share their story multiple times. To address this issue and support victims, we recommend DHS:

- Support coordination between state and local NGOs and law enforcement to increase law enforcement understanding of the unique challenges foreign trafficking victims face and how to complete I-914 Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, as well as to promote the increased issuance of Continued Presence.
- Support coordinated efforts between local NGOs and law enforcement to use trauma-informed approaches when gathering information from victims for purposes of applying for Continued Presence.

<sup>65</sup> See, e.g., U.S. Citizenship and Immigration Services. (2021, April 16). *Annual report on immigration applications and petitions made by victims of abuse – Fiscal year 2020: Report to Congress*. U.S. Department of Homeland Security. <https://www.uscis.gov/sites/default/files/document/reports/FY20-Immigration-Applications-Made-by-Victims-of-Abuse.pdf>

<sup>66</sup> See, e.g., U.S. Citizenship and Immigration Services. (n.d.). *Check case processing times*. U.S. Department of Homeland Security. <https://egov.uscis.gov/processing-times/>

# Conclusion

The members of the U.S Advisory Council on Human Trafficking extend our gratitude to federal, state, territorial, tribal, and local government agencies, NGOs, survivor-led organizations, and Survivor Leaders on their efforts to achieve the goals of the Trafficking Victims Protection Act, and its 2021 reenactment. As the world continues to address and recover from the COVID-19 pandemic, we encourage stakeholders to keep victims of trafficking in mind in all aspects of service delivery and policymaking. This Council represents the unheard and will continue to work on behalf of all survivors at the highest levels of government to meet our mandate and to amplify survivors' diverse voices. We hope this report's recommendations support federal agencies in sustaining and implementing best practices that are victim-centered. We further hope that it supports increased awareness, education, advocacy, and partnership while at the same time prompts the dismantling of practices that are contrary to the best interests of survivors and victims. Survivors' realities, after being victims of human trafficking, are directly related to our collective efforts to help. Let us not fail them again.



# Appendix A: Index of Recommendations

Page	Council Recommendations
All PITF Agencies	
27	We recommend PITF agencies increase awareness of and adopt best practices to uphold the rights of victims of human trafficking as outlined in the Crime Victims' Rights Act.
U.S. Department of Commerce	
26	We recommend DOJ, HHS, DOL, and DOC promote employment and economic empowerment opportunities, including entrepreneurship opportunities for human trafficking survivors, by increasing awareness of existing employment and training opportunities and by training American Job Center and employment program staff on working with human trafficking survivors.
U.S. Department of Education	
23	We recommend ED update the <i>"Human Trafficking in America's Schools"</i> guide to encourage schools to partner with advocates who are Survivor Leaders and can support youth who have experienced trafficking in navigating various systems of care.
U.S. Department of Health and Human Services	
18	We recommend DOJ, HHS, and HUD encourage and/or fund promising voucher and other housing programs for human trafficking survivors, including those that target underserved populations, are accessible to survivors (e.g., waive criminal record or credit related requirements), and offer long-term supports.
21	We recommend HHS/SAMHSA and HHS/OTIP increase coordination to support training development and state/local and state/tribal partnerships focused on mental health issues for human trafficking survivors.
25	We recommend HHS/OTIP, HHS/OCC, and HHS/OHS increase accessibility to child care and Head Start programs for human trafficking survivors.
26	We recommend DOJ, HHS, DOL, and DOC promote employment and economic empowerment opportunities, including entrepreneurship opportunities for human trafficking survivors, by increasing awareness of existing employment and training opportunities and by training American Job Center and employment program staff on working with human trafficking survivors.
29	We recommend HHS, DOJ, and DHS address the gaps and issues relating to the intersection between pornography, human trafficking, and child sexual exploitation.
36	We recommend HHS/ORR enhance coordination for follow up supports with local service providers for recent asylees and refugees who may be vulnerable to trafficking to ensure their safety and access to needed services.
U.S. Department of Homeland Security	
23	We recommend DHS/Blue Campaign further promote online safety prevention efforts for youth and underserved populations by creating a tool similar to iGuardian that specifically addresses human trafficking and targets individuals at-risk of human trafficking online, individuals exploiting others through human trafficking online, and/or potential online buyers of commercial sex from human trafficking victims.
29	We recommend HHS, DOJ, and DHS address the gaps and issues relating to the intersection between pornography, human trafficking, and child sexual exploitation.
31	We recommend DOJ and DHS increase labor trafficking investigations and prosecutions by enhancing interagency partnerships; leveraging existing data on labor trafficking; coordinating with DOL to use existing data on U.S. based employers and farm labor contractors and its third-party agents, such as foreign labor recruiters; and engaging labor market experts.



Page	Council Recommendations
38	We recommend DHS continue to make efforts to increase awareness and accessibility of T visas and to reduce the backlog of T visas.
U.S. Department of Housing and Urban Development	
18	We recommend DOJ, HHS, and HUD encourage and/or fund promising voucher and other housing programs for human trafficking survivors, including those that target underserved populations, are accessible to survivors (e.g., waive criminal record or credit related requirements), and offer long-term supports.
U.S. Department of Justice	
18	We recommend DOJ, HHS, and HUD encourage and/or fund promising voucher and other housing programs for human trafficking survivors, including those that target underserved populations, are accessible to survivors (e.g., waive criminal record or credit related requirements), and offer long-term supports.
20	We recommend DOJ/OVW and DOJ/OVC increase the capacity of housing programs for domestic violence and sexual assault victims to serve human trafficking survivors, including by supporting increased coordination between those housing programs and human trafficking service providers.
26	We recommend DOJ, HHS, DOL, and DOC promote employment and economic empowerment opportunities, including entrepreneurship opportunities for human trafficking survivors, by increasing awareness of existing employment and training opportunities and by training American Job Center and employment program staff on working with human trafficking survivors.
29	We recommend HHS, DOJ, and DHS address the gaps and issues relating to the intersection between pornography, human trafficking, and child sexual exploitation.
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32	We recommend DOJ evaluate the effectiveness of ECMs to Combat Human Trafficking as well as support ECMs in improving their data collection efforts and incorporating survivors' voices.
34	We recommend that DOJ/HTPU and DOJ/EOUSA implement a fellowship similar to DOJ/OVC's "Human Trafficking Survivor-Informed Services Fellowship" to inform the development, revision, and delivery of training and protocols for federal prosecutors.
34	We recommend DOJ create a Victim Wellness Assessment to be used by law enforcement victim specialists to assess and, if needed, connect victims to immediate and critical support services during the investigation and prosecution process.
35	We recommend DOJ promote diversion programs and alternatives to incarceration for both minor and adult victims of trafficking.
U.S. Department of Labor	
26	We recommend DOJ, HHS, DOL, and DOC promote employment and economic empowerment opportunities, including entrepreneurship opportunities for human trafficking survivors, by increasing awareness of existing employment and training opportunities and by training American Job Center and employment program staff on working with human trafficking survivors.
U.S. Department of State	
37	We recommend State, in diplomatic engagements, prioritize encouraging foreign governments to increase consular assistance to their respective citizens who identify as victims in the United States and in other countries.
37	We recommend State increase messaging and outreach on visa application processes and forms to ensure applicants understand their rights and responsibilities.
Federal Human Trafficking Housing Working Group and the SPOG Victim Services Committee	
19	We recommend the federal Human Trafficking Housing Working Group and the SPOG Victim Services Committee continue to identify and promote promising housing programs for human trafficking survivors.

# Appendix B: The Victims' Rights and Restitution Act and the Crime Victims' Rights Act

## THE VICTIMS' RIGHTS AND RESTITUTION ACT 34 U.S.C. § 20141: SERVICES TO VICTIMS

### (a) DESIGNATION OF RESPONSIBLE OFFICIALS

The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

### (b) IDENTIFICATION OF VICTIMS

At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

- (1) identify the victim or victims of a crime;
- (2) inform the victims of their right to receive, on request, the services described in subsection (c); and

- (3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

### (c) DESCRIPTION OF SERVICES

- (1) A responsible official shall—
  - (A) inform a victim of the place where the victim may receive emergency medical and social services;
  - (B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;
  - (C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and
  - (D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

- (2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

- (3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

- (A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;
- (B) the arrest of a suspected offender;
- (C) the filing of charges against a suspected offender;
- (D) the scheduling of each court proceeding that the witness is either required to attend

or, under section 10606(b)(4) [2] of title 42, is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

- (4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

- (5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

- (6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

- (7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes. The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.

- (8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

**(d) NO CAUSE OF ACTION OR DEFENSE**

This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

**(e) DEFINITIONS**

For the purposes of this section—

- (1) the term “responsible official” means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and
- (2) the term “victim” means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime,

## THE CRIME VICTIMS’ RIGHTS ACT

### 18 U.S.C. § 3771: CRIME VICTIMS’ RIGHTS

**(a) RIGHTS OF CRIME VICTIMS**

A crime victim has the following rights—

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- (5) The reasonable right to confer with the attorney for the Government in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim’s dignity and privacy.
- (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.
- (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims’ Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims’ Rights Ombudsman of the Department of Justice.

**(b) RIGHTS AFFORDED**

- (1) **IN GENERAL.** In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives

including—

- (A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and
- (B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):
  - (i) a spouse;
  - (ii) a legal guardian;
  - (iii) a parent;
  - (iv) a child;
  - (v) a sibling;
  - (vi) another family member; or
  - (vii) another person designated by the court.

to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

**(2) HABEAS CORPUS PROCEEDINGS—**

- (A) In general. In a Federal habeas corpus proceeding arising out of a State conviction, the court shall ensure that a crime victim is afforded the rights described in paragraphs (3), (4), (7), and (8) of subsection (a).
- (B) Enforcement.
  - (i) In general. These rights may be enforced by the crime victim or the crime victim’s lawful representative in the manner described in paragraphs (1) and (3) of subsection (d).
  - (ii) Multiple victims. In a case involving multiple victims, subsection (d)(2) shall also apply.
- (C) Limitation. This paragraph relates to the duties of a court in relation to the rights of a crime victim in Federal habeas corpus proceedings arising out of a State conviction, and does not give rise to any obligation or requirement applicable to personnel of any agency of the Executive Branch of the Federal Government.
- (D) Definition. For purposes of this paragraph, the term “crime victim” means the person against whom the State offense is committed or, if that person is killed or incapacitated, that person’s family member or other lawful representative.

**(c) BEST EFFORTS TO ACCORD RIGHTS**

- (1) **GOVERNMENT.** Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).
- (2) **ADVICE OF ATTORNEY.** The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).



(3) NOTICE. Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

(d) ENFORCEMENT AND LIMITATIONS

(1) RIGHTS. The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

(2) MULTIPLE CRIME VICTIMS. In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

(3) MOTION FOR RELIEF AND WRIT OF MANDAMUS.--The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim's right forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

(4) ERROR. In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

(5) LIMITATION ON RELIEF. In no case shall a failure to afford a right under this chapter provide grounds for a 2263 new trial. A victim may make a motion to re-open a plea or sentence only if—

- (A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;
- (B) the victim petitions the court of appeals for a writ of mandamus within 10 days; and
- (C) in the case of a plea, the accused has not pled to the highest offense charged. This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.

(6) NO CAUSE OF ACTION. Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter

shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

(e) DEFINITIONS

For the purposes of this chapter—

(1) COURT OF APPEALS. The term "court of appeals" means—

- (A) the United States court of appeals for the judicial district in which a defendant is being prosecuted; or
- (B) for a prosecution in the Superior Court of the District of Columbia, the District of Columbia Court of Appeals.

(2) CRIME VICTIM

- (A) In general. The term "crime victim" means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia.
- (B) Minors and certain other victims. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

(3) DISTRICT COURT; court. The terms "district court" and "court" include the Superior Court of the District of Columbia.

(f) PROCEDURES TO PROMOTE COMPLIANCE

(1) REGULATIONS. Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

(2) CONTENTS. The regulations promulgated under paragraph (1) shall—

- (A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;
- (B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;
- (C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and
- (D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.



